**Endorsement Agreement Between product manufacturer and licensor of professional athlete apparel company**

**ENDORSEMENT AGREEMENT**

This Agreement made *[date of agreement]*, between *[name of company]*, a corporation organized under the laws of *[name of state]*, having its principal office at *[address of company]* (“Company”), and *[name of licensor]*, a corporation organized under the laws of *[name of state]*, having its principal office at *[address of licensor]* (“Licensor”), and a mailing address of c/o *[name of agent]*, of *[address of agent]*.

RECITALS

A. *[Name of athlete]* is recognized as a highly skilled professional *[type of athlete]*.

B. Company and *[name of former licensor]* entered into an Endorsement Agreement dated as of *[date of former license agreement]*, which agreement will expire on *[date of expiration of former license agreement]* (the “*[identification of year]* Agreement”).

C. Company desires to continue to obtain the exclusive rights to use the name, fame, image and athletic renown of *[name of athlete]* in connection with the advertisement and promotion of certain of its products following the expiration of the *[identification of year]* Agreement on *[date of expiration of former license agreement]*.

D. *[Name of athlete]* has licensed all such rights to Licensor, along with the right to sublicense such rights to third parties.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

SECTION ONE.   DEFINITIONS

As used in this Agreement, the following terms shall be defined as follows:

A. “Contract Period” shall mean that period of time commencing on *[date of commencement of term]*, and concluding *[date of end of term]*, unless terminated sooner as provided in this Agreement.

B. “Contract Territory” shall mean worldwide.

C. “Contract Year” shall mean the consecutive 12-month period beginning on any *[name of month]* *[ordinal number of day]* during the Contract Period.

D. “Gross Sales” shall mean total revenues, under generally accepted accounting principles, from sales of the Licensed Products, but does not include any revenue from sales, use or other transaction taxes, duties, handling, graphics, embroidery or shipping.

E. “Net Sales” shall mean Gross Sales less Product returns, trade discounts, samples, allowances, value added services, markdowns, customer chargebacks and liquidation sales (substantially discounted and out of ordinary distribution channel) of Licensed Products.

F. “Licensed Products” shall mean *[names of product lines]* or other similarly named Product lines using the *[name of athlete]* Identification on the Products' affixed labels, hang-tags or logos.

G. “Products” shall mean *[men/women]*'s apparel, including *[types of apparel]*.

H. “*[Name of athlete]* Identification” means the right to use, subject to the provisions of this Agreement, *[name of athlete]*'s name, fame, nickname, initials, autograph, voice, video or film portrayals, facsimile signature, photograph, likeness and image or facsimile image, and any other means of endorsement by *[name of athlete]* used in connection with the advertisement and promotion of the Company and the Products (including the Licensed Products).

SECTION TWO.   GRANT OF RIGHTS

In consideration of the remuneration to be paid to Licensor pursuant to this Agreement, Licensor grants to Company and to its authorized distributors and sublicensees the right and license during the Contract Period to use the *[name of athlete]* Identification solely in connection with the advertisement, marketing and promotion of the Products within the Contract Territory as set forth in this Agreement. Licensor agrees not to grant the right to use the *[name of athlete]* Identification to anyone other than Company in connection with the advertisement and promotion of Products. It is understood that Company, its authorized distributors and sublicensees may not use the *[name of athlete]* Identification in connection with any items for sale or resale, other than the Products as specified in this Agreement. The foregoing rights to use the *[name of athlete]* Identification is limited to television, radio and print advertising, advertising published over the Internet (provided that such material is limited to advertising or Product promotion only), public relations and marketing materials, point-of-sale displays, free standing inserts, videos shown to customers and consumers, catalogs for customers and consumers, direct mail (including e-mail) and billboards. Company shall ensure that all uses of *[name of athlete]* Identification comply with applicable law.

SECTION THREE.   PRIOR APPROVAL

Company agrees that no use of the *[name of athlete]* Identification nor any item used in connection with the *[name of athlete]* Identification (including any Licensed Product) will be made under this Agreement unless and until the same is approved by Licensor. Licensor agrees that any material, advertising or otherwise, submitted for approval as provided in this section may be deemed by Company to have been approved under this section if the same is not disapproved in writing within *[number of days]* business days after receipt of the material. Licensor agrees that it will reasonably cooperate with Company and that any material submitted under this section will not be unreasonably disapproved and, if it is disapproved, that Company will be advised of the specific grounds for disapproval. If Company desires immediate approval of advertising material, Company shall have the right to directly contact Licensor's authorized agent to obtain such approval. Company agrees to protect, indemnify and hold harmless Licensor, *[name of athlete]* and their authorized agents, or any of them, from and against any and all expenses, damages, claims, suits, actions, judgments and costs whatsoever, arising out of, or in any way connected with any advertising material furnished by, or an behalf of Company, except with respect to any inaccurate information furnished by them expressly for use in such advertising.

SECTION FOUR.   REMUNERATION

In consideration of the endorsement rights granted under this Agreement, Company shall pay to Licensor the annual fees (the “Annual Fee”) in the Contract Years as follows:

*[Schedule of annual fees for each contract year]*.

One-half of the Annual Fee will be due on or before *[name of month 1]* *[ordinal number of day 1]* and *[name of month 2]* *[ordinal number of day 2]* of each Contract Year.

SECTION FIVE.   BONUSES

It is agreed that should *[name of athlete]* achieve any of the accomplishments set forth in the following schedule during the Contract Period, then Company will provide Licensor the additional remuneration set forth below for each such accomplishment due to the increased value in the *[name of athlete]* Identification:

*[Schedule of bonus amounts for each defined accomplishment]*.

Bonus payments under this SECTION FIVE will be due within *[number of days]* days following the achievement of each of the accomplishments set forth above pursuant to the terms set forth in SECTION EIGHT below.

SECTION SIX.   ROYALTY ON LICENSED PRODUCTS

A. Calculation of Royalty Fees.In addition to the payments provided in SECTIONS FOUR and FIVE, Company will pay to Licensor in U.S. dollars a fee (“Royalty Fee”) of *[percentage of net sales]*% of the Net Sales of Licensed Products sold by Company directly or through its distributors or sublicensees during the Contract Term.

B. Payment of Royalty Fee.Company will account for and pay the Royalty Fee to Licensor within *[number of days]* days following the end of each fiscal quarter during the Contract Period. Amounts not paid when due will accrue interest from the date due until paid at the rate of *[percentage rate of interest]*% per month or the maximum interest permitted by applicable laws, whichever is less.

C. Royalty Report.Company will deliver to Licensor, at the time each Royalty Fee payment is due, an itemized statement (“Royalty Report”): (i) indicating the total amount of Net Sales of all Licensed Products shipped during the previous fiscal quarter, and (ii) showing the number of Licensed Products sold by category of Product. Company will furnish the required Royalty Report to Licensor whether or not any Licensed Products have been sold during the relevant fiscal quarter. The receipt or acceptance by Licensor of any Royalty Report or of any payments made under this Agreement will not preclude Licensor from questioning their correctness at any time. Licensor reserves the right to audit the calculation of Net Sales provided in the Royalty Report, and Company will cooperate with the Licensor in any such audit request.

D. Currency.Whenever it becomes necessary under this SECTION SIX to convert a monetary amount from a foreign currency to U.S. dollars (whether for reporting, statements, or other purposes), such conversion will be made at the average of the currency exchange rates during the applicable reporting period, as derived using the *[name of conversion tool]* currently posted at *[Website address of conversion tool]* (the “Conversion Tool”). A conversion for the purpose of calculating a royalty payment pursuant to this SECTION SIX will be weighted according to the relative amount of Net Sales within each fiscal quarter. If the Conversion Tool is discontinued or otherwise no longer available, the parties will use such other index or computation that replaces the Conversion Tool or otherwise will result in substantially the same conversion rate as would be obtained by using the Conversion Tool.

E. Marketing Commitment.Company agrees that it will continue in good-faith to produce and market Licensed Products in the same manner that it is currently producing and marketing such items as of *[date of recent benchmark]*, unless Company and *[name of athlete]* believe it is not commercially reasonable to continue to produce and market the Licensed Products.

SECTION SEVEN.   SERVICES OF LICENSOR

A. If Company desires to use the services of *[name of athlete]* as a model in connection with Company advertising to promote its Products or as a part of a special promotional appearance for the Company, Licensor agrees, at the request of Company, to provide the services of *[name of athlete]* for *[number of days]* days per Contract Year as mutually agreed upon and at places reasonably convenient to *[his/her]* schedule. Each day shall not exceed *[number of hours]* hours unless otherwise agreed upon. Company agrees that it will reimburse Licensor for all reasonable travel, lodging and meal expenses incurred by Licensor or *[name of athlete]* in connection with such services. Licensor agrees to use its best efforts to cause *[name of athlete]* to make appearances at Company's booth at *[name of trade show]* in *[name of city]*, *[name of state]* each Contract Year during the Contract Period. If *[name of athlete]* is unable to attend *[name of trade show]* in any Contract Year, Licensor agrees that it will provide *[name of athlete]*'s services for *[number of minutes]* minutes in such Contract Year at a mutually agreed upon time and location. If *[name of athlete]* retires from competitive *[name of sport]* during the Contract Period, Licensor agrees that *[name of athlete]* will provide Company with an additional service day per Contract Year starting in the Contract Year *[name of athlete]* retires from competitive playing. Company further understands that failure to use services of *[name of athlete]* pursuant to this section shall not result in any reduction in payments to Licensor under this Agreement nor may the obligation to provide services be carried forward or backward to any Contract Year. The obligations of Licensor to provide services of *[name of athlete]* under this Agreement are subject to the condition that payments to Licensor are current and up to date.

B. Should Company use *[name of athlete]* in television advertising to promote Company's Products, Company will make all applicable required union scale and pension and welfare payments.

C. During the Contract Period, *[name of athlete]* shall wear Company Products at all professional *[name of sport]* events and at all media appearances where appropriate. It is agreed that the logo or name of Company (the “Company Logo”) shall be affixed to the *[description of location on body]* locations of all Company Products that *[name of athlete]* wears, when *[he/she]* plays professional *[name of sport]*. Company agrees that it will be responsible for, and the cost of, affixing the Company Logo on all such Company Products. Company acknowledges that other locations on *[name of athlete]*'s Products are reserved for Licensor's other sponsors. Furthermore, Company understands that if *[name of athlete]* participates in a special team event where there is an official uniform, then *[name of athlete]* is permitted to wear such uniform during such event (e.g., *[description of examples of special events]*).

D. During each Contract Year, Company shall supply *[name of athlete]* with sufficient quantities of Company's Products (at least *[number of pieces]* pieces of *[name of sport]* apparel) which are entirely suitable for *[name of athlete]*'s use in professional competition so *[he/she]* can wear such apparel while *[he/she]* plays professional *[name of sport]*. Company agrees to pay all charges in connection with the delivery of Products to *[name of athlete]*, including shipping charges, air-freight charges and customs charges. Company agrees to reimburse *[name of athlete]*'s authorized agent for all such reasonable expenses incurred by it in connection with the transfer of Products and clothing to *[name of athlete]*.

E. On a semiannual basis, *[name of athlete]* shall provide to Company colors and styling suggestions for the Licensed Products that Company wishes to produce. Before each season is finalized, Company will provide Licensor with the right to review the design materials for the upcoming season, including color images and fabric samples. The Company will, in good-faith, consider any suggestions by *[name of athlete]* before finalizing the Product line, with such review and consideration to constitute Licensor's approval as contemplated in this Agreement.

SECTION EIGHT.   PAYMENTS

All payments shall be made by wire transfer drawn to the account of “*[name of licensor]*” as follows:

*[Schedule of payments]*.

Past due payments under this Agreement shall bear interest at the rate of: (a) *[percentage rate of interest]*% per month; or (b) the maximum interest rate permissible under law, whichever is less. All amounts in this section are in United States dollars.

SECTION NINE.   AUTHORIZED AGENT

Licensor designates *[name of agent]*, of *[address of agent]*, as its authorized agent for all purposes under this Agreement. All notices or submissions to be made or delivered by Company to Licensor pursuant to this Agreement shall be delivered to the agent's above address free of all charges such as, for example, shipping charges and customs charges. If any such charges are paid by Licensor or by its authorized agent, Company agrees to make prompt reimbursement. All notices or submissions to be made or delivered to Company pursuant to this Agreement shall be delivered to *[name of company]*, at *[address of company]*, Attention: *[Title of contact person at company]*.

SECTION TEN.   DEFAULT

A. If either party at any time during the Contract Period shall: (i) fail to make any payment of any sum of money specified in this Agreement to be made; or (ii) fail to observe or perform any of the covenants, agreements or obligations under this Agreement (other than the payment of money), the nondefaulting party may terminate this Agreement as follows: As to a default under clause (i) above, if such payment is not made within *[number of days]* business days after the defaulting party shall have received written notice of such failure to make payment; or, as to a default under clause (ii) above, if such other default is not cured within *[number of days]* days after the defaulting party shall have received written notice specifying in reasonable detail the nature of such default. In order to be a sufficient notice under this section, any such written notice shall specify in detail each item of default and shall specify the provision of this Agreement which applies to each item of default, and shall specify in detail the action the defaulting party is required to take in order to cure each item of default. The termination rights set forth in this section shall not constitute the exclusive remedy of the nondefaulting party under this Agreement, however, and if default is made by either party under this Agreement, the other party may resort to such other remedies as such party would have been entitled to if this section had been omitted from this Agreement, subject to the terms of this Agreement. Termination under the provisions of this section shall be without prejudice to any rights or claims which the terminating party may otherwise have against the defaulting party, and if Company is the defaulting party, Company shall be responsible for any and all payments due under the terms of this Agreement in addition to other liabilities set forth above.

B. If Company shall become bankrupt or insolvent, or if Company's business shall be placed in the hands of a receiver, assignee or trustee, whether by voluntary act of Company or otherwise, the Contract Period, at the election of Licensor, shall immediately terminate.

SECTION ELEVEN.   USE OF *[NAME OF ATHLETE]* IDENTIFICATION AFTER TERMINATION

A. Except as provided in paragraph B of this SECTION ELEVEN, from and after the termination of the Contract Period, all of the rights of Company to the use of the *[name of athlete]* Identification shall cease absolutely and Company subsequently shall not use or refer to the *[name of athlete]* Identification in advertising or promotion in any manner whatsoever. Except as provided in paragraph B below, it is further agreed that following termination of the Contract Period, Company shall not advertise, promote, distribute or sell any item whatsoever in connection with the use of any name, figure, design, logo, trademark or tradename similar to or suggestive of the *[name of athlete]* Identification.

B.

1. Company may liquidate and sell its inventory of Licensed Products (including any inventory then in production) for a period of *[number of days]* days after the termination date of the Contract Period, subject to the Company's continued obligation to pay the Royalty Fee as provided in SECTION SIX above, and will deliver the Royalty Report with respect to such liquidation sales within *[number of days]* days following the end of such *[number of days]*-day period.

2. If Company has not disposed of all Licensed Products as provided in subparagraph 1 above by the end of the *[number of days]*-day period, Company, at its option, may either: (a) remove or obliterate entirely from such Licensed Products (and any labels, tags, riders and the like) all references to any *[name of athlete]* Identification, and then sell the same; or (b) destroy all such remaining Licensed Products.

SECTION TWELVE.   TRADEMARKS

Company agrees that it will not file, during the Contract Period or afterward, any application for trademark registration or otherwise obtain or attempt to obtain ownership of any trademark or tradename within the Contract Territory or in any other country of the world which consists of the *[name of athlete]* Identification or any mark, design or logo intended to obtain any rights to *[name of athlete]* Identification or to identify products as being endorsed by *[name of athlete]*. If, prior to commencement of the Contract Period, Company has filed one or more applications for registration of any such trademark, or otherwise has obtained any rights to such trademark, Company agrees to cause such applications and trademarks to be assigned and transferred to Licensor as soon as possible.

SECTION THIRTEEN.   RESERVATION OF RIGHTS

All rights not specifically granted in this Agreement to Company shall remain the property of Licensor to be used in any manner Licensor deems appropriate. Company understands that Licensor bas reserved the right to authorize others to use the *[name of athlete]* Identification within the Contract Territory and during the Contract Period in connection with all tangible and intangible items and services other than Products themselves. Licensor is not aware of any such rights that would conflict with the nature or image of Company Products.

SECTION FOURTEEN.   INDEMNITY

Company agrees to protect, indemnify and hold harmless Licensor, *[name of athlete]* and their authorized agents, or any of them, from and against any and all expenses, damages, claims, suits, actions, judgments and costs whatsoever, including reasonable attorney's fees, arising out of, or in any way connected with, actions or omissions of Company, any advertising material furnished by, or an behalf of, Company, or any claim or action for personal injury, death or other cause of action involving alleged defects in Company's Products or services. Company agrees to provide and maintain, at its own expense, general commercial and product liability insurance with limits no less then $*[dollar amount of insurance limit]* and naming Licensor and *[name of athlete]* as additional named insureds. Within *[number of days]* days after the date of this Agreement, Company will submit to Licensor evidence of such policy, requiring that the insurer shall not terminate or materially modify such policy without written notice to Licensor at least *[number of days]* days in advance of such termination or modification.

SECTION FIFTEEN.   SPECIAL RIGHT OF TERMINATION

Company shall have the right to terminate this Agreement, upon written notice to Licensor, if the commercial value of the *[name of athlete]* Identification is substantially reduced because *[name of athlete]*: (i) has been charged with illegal or immoral conduct which could result in a felony conviction and such charges have not been dismissed or terminated within *[number of days]* days; or (ii) fails an officially sanctioned drug test or is criminally convicted of any felony or drug related offense. Any termination pursuant to this section shall become effective on the *[ordinal number of day]* day next following the date of receipt by Licensor of Company's written notice to so terminate.

SECTION SIXTEEN.   CONTRACT EXTENSION

Due to long product development lead times, Company and Licensor agree to begin discussions for the renewal of this Agreement by *[date of commencement of contract renewal discussion]*. All terms of the *[identification of year]* Agreement will remain in effect until its expiration on *[date of expiration of former license agreement]*. The terms of this Agreement will automatically commence on *[date of commencement of term]*, and expire on *[date of end of term]*.

SECTION SEVENTEEN.   LIMITED LIABILITY

Notwithstanding anything to the contrary in this Agreement, if Company incurs any expenses, damages or other liabilities (including but not limited to reasonable attorney's fees) in connection with the performance or nonperformance of any term or provision of this Agreement, Licensor's liability to Company shall not exceed the remuneration, excluding reimbursement of expenses, actually paid to Licensor by Company. In no event will Licensor be liable for any indirect, incidental, reliance, special or consequential damages arising out of the performance or nonperformance of this Agreement, whether or not Licensor had been advised of the possibility of such damages. It is understood that *[name of athlete]* is not a party to this Agreement and has no liability under this Agreement but is an intended specific third-party creditor beneficiary of this Agreement.

SECTION EIGHTEEN.   WAIVER

The failure of either party at any time or times to demand strict performance by the other party of any of the terms, covenants or conditions set forth in this Agreement shall not be construed as a continuing waiver or relinquishment of the same and each party may at any time demand strict and complete performance by the other party of such terms, covenants and conditions. Any waiver of such rights must be set forth in writing.

SECTION NINETEEN.   SEVERABILITY

If any provision of this Agreement shall be declared illegal, invalid, void or unenforceable by any judicial or administrative authority, the validity of any other provision and of the entire Agreement shall not be affected by such declaration.

SECTION TWENTY.   ASSIGNMENT

This Agreement shall bind and inure to the benefit of Company and Licensor and their respective successors and assigns.

SECTION TWENTY-ONE.   GOVERNING LAW; ARBITRATION

This Agreement shall be governed by, and its provisions enforced in accordance with, the laws of *[name of state]*, without regard to its principles of conflicts of laws. If a dispute arises under this Agreement which cannot be resolved, such dispute shall be submitted to arbitration and resolved by a single arbitrator (who shall be a lawyer not employed by or associated with either party to this Agreement) in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. All such arbitration shall take place at the office of the American Arbitration Association located in *[name of city]*, *[name of state]*. Each party is entitled to depose one fact witness and all expert witnesses retained by the other party, and to conduct such other discovery as the arbitrator deems appropriate. The award or decision rendered by the arbitrator shall be final, binding and conclusive and judgment may be entered upon such award by any court.

SECTION TWENTY-TWO.   HEADINGS

Section headings contained in this Agreement are solely for the purpose of aiding in speedy location of subject matter and are not in any sense to be given weight in the construction of this Agreement. Accordingly, in case of any question with respect to the construction of this Agreement, it is to be construed as though such section headings had been omitted.

SECTION TWENTY-THREE.   NO JOINT VENTURE

This Agreement does not constitute and shall not be construed as constituting an association, partnership, joint venture or relationship of principal and agent, or employer and employee, between Licensor and Company. Neither party shall have any right to obligate or bind the other party in any manner whatsoever, and, except as expressly set forth in this Agreement, nothing contained in this Agreement shall give, or is intended to give, any rights of any kind to any person.

SECTION TWENTY-FOUR.   ENTIRE AGREEMENT

This writing constitutes the entire agreement between the parties to this Agreement and may not be changed or modified except by a writing signed by the party or parties to be charged by such change or modification.

The parties have executed this Agreement at *[place of execution]* the day and year first set forth above.

*[Name of company]*

By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Name of officer of company]*

*[Title of officer of company]*

*[Name of licensor]*

By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Name of officer of licensor]*

*[Title of officer of licensor]*