



License Agreement Michigan Technological University

This Agreement is entered into this _____ day of _____ by and between Michigan Technological University, having its principal place of business at 1400 Townsend Drive, Houghton, Michigan 49931-1295, hereinafter referred to as Michigan Tech, and _____, located at _____ hereinafter referred to as "Licensee."

WHEREAS, MICHIGAN TECH is the owner of certain designations comprising designs, trade names, trademarks, service marks, logographics, and/or symbols that have come to be associated with MICHIGAN TECH and have been developed and used in commerce by MICHIGAN TECH (hereafter collectively called the Licensed Marks);

WHEREAS, Licensee desires to use one or more of said Licensed Marks in connection with the production and marketing of various articles of merchandise; and

WHEREAS, MICHIGAN TECH is willing to permit Licensee to make such use of the Licensed Marks in such a manner as to preserve the integrity, character, and dignity of MICHIGAN TECH and to maintain the reputation of the Licensed Marks as designating high-quality merchandise:

NOW THEREFORE, the parties agree as follows:

I. Definitions

The terms set forth below shall have the following meanings when used herein:

- (1) "Licensed Marks" means the designs, trademarks, service marks, trade names, logos, symbols, and other devices associated with and owned by MICHIGAN TECH identified in Exhibit A hereto.
- (2) "Agreement" means this Agreement and any addenda or exhibits hereto.
- (3) "Licensed Articles" means the articles of merchandise or products using one or more Licensed Marks identified in Exhibit B hereto.
- (4) "Retail Sales" means the sale of Licensed Articles directly to the ultimate consumer at retail outlets (including University outlets) or through mail order or catalogs.
- (5) "Wholesale Sales" means the sale of Licensed Articles to anyone other than the ultimate consumer.
- (6) "Net Sales" means the gross wholesale invoice amounts billed customers, less quantity discounts actually allowed and taken by the customer, and any credits for returns actually made as supported by credit memos issued to customers. No costs incurred in the manufacturing, selling, advertising, or distribution of goods, or any indirect expenses, shall be deducted, nor shall any deduction be made for uncollectible accounts, cash discounts, or similar allowances.
- (7) "Premium" means any article given free or sold at less than the usual selling price for the purpose of increasing the sale of, or publicizing any other product or service, or for any other giveaway or promotional purposes.

II. Grant of License

- (1) Subject to the terms and conditions of this Agreement, MICHIGAN TECH hereby grants to Licensee a nonexclusive license to use the Licensed Marks on and in conjunction with the marketing, promotion, and sale of the Licensed Articles in the United States.
- (2) Licensee shall have no right to sublicense to others the use of Licensed Marks, nor shall any Marks be transferred, reassigned, or encumbered by Licensee.
- (3) No license is granted under this Agreement for the use of Licensed Marks in connection with Premium programs. Premium programs using Licensed Marks must have the prior written approval of MICHIGAN TECH.
- (4) All Licensed Marks used by Licensee shall be accompanied by the appropriate trademark or service mark notice.

III. Royalty Payments and Reports

- (1) Rate. Licensee agrees to pay to MICHIGAN TECH a royalty equal to six (6) percent of Net Sales of all Licensed Articles sold.
- (2) Initial Licensing Fee. **Licensee shall pay to MICHIGAN TECH an initial fee of \$200.00 at the time this Agreement is signed.** Reports and Records. Licensee shall provide quarterly reports to MICHIGAN TECH within thirty (30) days following the last day of the months of March, June, September, and December (calendar quarters) on all Licensed Articles manufactured, distributed, and sold. Licensee agrees to keep full and accurate records to show the basis for calculation of royalties, and such records, including sales invoices and Licensee's general accounting records, shall be open to inspection by MICHIGAN TECH's representative at reasonable times, and within normal business hours. Licensee will be responsible for the costs of this compliance review, if MICHIGAN TECH's accounting representative shows that Licensee's royalties are understated by more than ten (10) percent. Licensee agrees to retain such accounting records for a period of not less than four (4) years after the accounting pertaining to them is rendered to MICHIGAN TECH.
- (3) Royalty Payments. For purposes of determining the royalty payments, sales shall be deemed to have been consummated at the time of invoicing or billing for said Licensed Articles or at the time of delivery thereof, whichever is earlier. Payments shall be made quarterly within thirty (30) days from the end of each quarter, to MICHIGAN TECH, Technology & Economic Development, 1400 Townsend Drive/ATDC Bldg, Houghton, Michigan 49931.
- (4) Delinquent Payments. All royalty amounts not timely paid will be charged a rate of interest not to exceed one and one-half (1.5) percent per month thereof during which said amounts remain delinquent.

IV. Term

The initial term of this Agreement shall be for two years from the date of the Agreement, and the Agreement shall be renewed for additional two-year terms on December 31st, if mutually agreed in writing by both parties. If the Agreement expires or is terminated, all rights granted to the Licensee herein shall cease, except that Licensee may sell all products on-hand in inventory at the time of termination, provided that Licensee shall pay to MICHIGAN TECH the royalties and provide reports as required in Section III for said items. Termination can be effected by either party by giving the other not less than ten (10) days written notice and paying any amounts due up to the time of termination.

V. Product Quality and Approvals

MICHIGAN TECH reserves the right to approve or reject the quality and propriety of any items bearing the Licensed Marks. All such items are subject to approval by MICHIGAN TECH prior to their use or sale. Licensee agrees to maintain high standards of quality and handiwork as to the Licensed Articles and acknowledges that if the Licensed Articles manufactured and sold by it are of inferior quality in design, material, or handiwork, MICHIGAN TECH's substantial goodwill in the Licensed Marks will be irreparably impaired. The quality and propriety of items carrying the Licensed Marks must be approved by MICHIGAN TECH. Until said products are specifically approved by MICHIGAN TECH, Licensee shall not use the Licensed Marks on the products. Licensee shall, before it sells or distributes any Licensed Article, furnish to MICHIGAN TECH free of cost, for its approval, representative samples of any such Licensed Article together with representative samples of any new and related cartons, containers, packaging, or wrapping material. MICHIGAN TECH shall have two (2) weeks from receipt thereof in which to reject said sample and in the absence of rejection within said period, or upon earlier written acceptance, said sample shall be deemed accepted. The Licensed Marks may be applied by Licensee only to such licensed articles as are manufactured in accordance with this Agreement and which have substantially the same relative quality as do the samples thereof. Approval shall not be deemed endorsement by MICHIGAN TECH of the quality, usefulness, or safety of the product bearing the Licensed Mark.

Any changes in the type, composition, or quality of the product must be approved by MICHIGAN TECH before Licensee can use the Licensed Marks on a product pursuant to this Agreement. Approval of additional products or subsequent changes in approved products of Licensee must again be obtained in writing from MICHIGAN TECH, and Licensee must furnish appropriate samples thereof.

VI. Indemnity

Licensee hereby agrees to indemnify, defend, and hold MICHIGAN TECH harmless—and any of its Board of Control members, officers, employees, and agents—for and from any and all claims, liabilities, judgments, costs, and expenses, including court costs and attorney's fees, arising out of any action by Licensee under this Agreement. Licensee shall obtain and maintain product liability insurance providing protection for MICHIGAN TECH and any of its Board of Control members, officers, agents, and employees in amounts of coverage specified below, against any claims, liabilities, judgments, costs, and expenses, including court costs and attorney's fees, arising out of any alleged defects in Licensee's products, or any use thereof. MICHIGAN TECH and its Board of Control members, officers, agents, and employees shall be named as an additional insured in said policy of insurance, which shall provide that it may not be canceled without at least thirty (30) days written notice to MICHIGAN TECH, which shall be furnished with a certificate of such insurance. Licensee agrees that such insurance policy or policies shall provide coverage of one million dollars (\$1,000,000) for personal injuries arising out of each occurrence and three hundred thousand dollars (\$300,000) for property damage arising out of each occurrence.

VII. Notices

A notice given by a party under this Agreement shall be deemed to be given when the same shall have been postmarked, provided that such is mailed Certified or Registered mail, Return Receipt Requested, and the postage is prepaid First Class to the party at the address listed below or to such other party or address as the party may have furnished in writing to the other for that purpose; otherwise notice shall be deemed given when received.

VIII. Termination of Agreement

This Agreement shall automatically terminate if Licensee becomes insolvent, makes an assignment for the benefit of any creditor, or becomes the subject of any bankruptcy or receivership proceedings.

IX. Integration

This Agreement constitutes the entire agreement between the parties, and no modifications or revisions hereof shall be of any force or effect unless the same are in writing and executed by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of Michigan.

IN WITNESS WHEREOF, the parties executed this Agreement on the date mentioned above.

Licensee	Michigan Technological University
_____	_____
Name	Name
_____	_____
Title	Title
_____	_____
Date	Date