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ADVERTISING AGENCY AGREEMENT

This Advertising Agency Agreement ("Agreement") is made and effective this [Date], by and between [Advertiser] ("Advertiser") and [Agency] ("Agency").

Agency is in the business of providing advertising agency services for a fee.

Advertiser desires to engage Agency to render, and Agency desires to render to Advertiser, certain advertising agency services, as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties hereto agree as follows:

1. Engagement.

Advertiser engages Agency to render, and Agency agrees to render to Advertiser, certain services in connection with Advertiser's planning, preparing and placing of advertising for certain of Advertiser's products as follows:

- A. Analyze Advertiser's current and proposed products and services and present and potential markets.
- B. Create, prepare and submit to Advertiser, for its prior approval, advertising ideas and programs.
- C. Prepare and submit to Advertiser, for its prior approval, estimates of costs and expenses associated with proposed advertising ideas and programs.
- D. Design and prepare, or arrange for the design and preparation of, advertisements.
- E. Perform such other services as Advertiser may request from time to time, such as, but not limited to, direct mail advertising preparation, speech writing, publicity and public relations work, and market research and analysis.

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F. Order advertising space, time, or other means to be used for publication of Advertiser's advertisements, at all times endeavoring to secure the most efficient and advantageous rates available.

G. Proof of accuracy and completeness of insertions, displays, broadcasts, or other forms of advertisements.

H. Audit invoices for space, time, material preparation, and charges.

2. Products.

Agency's engagement shall relate to the following products and services of Advertiser:

_____ [Products]

3. Exclusivity.

Agency shall be the [Exclusive or Non-Exclusive] advertising agency in the United States for Advertiser with respect to the products described in Section 2 above.

4. Compensation.

A. Agency shall receive an amount equal to [Media Commission Rate] percent of the gross charges levied by media for advertising placed therewith by Agency pursuant to this Agreement; and [Non-Media Commission Rate] percent after volume discount, of the charges of suppliers of services or properties, such as finished art, comprehensive layouts, type composition, photostats, engravings, printing, radio and television programs, talent, literary, dramatic and musical works, records and exhibits, purchased by Agency on Advertiser's authorization during the term of this Agreement; provided that:

(i) No percentage will be added to Agency charges for packing, shipping, express, postage, telephone, telex, fax, travel expenses and other out of pocket expenses of Agency personnel; and

(ii) Agency's commission for outdoor advertising will be the standard rate allowed advertising agencies when such rate is less than [Outdoor Advertising Commission Rate].

B. For those items where Agency is not compensated on a commission basis, Advertiser shall pay Agency on an hourly basis for services provided hereunder. The rate will be determined by the type of services provided and the person or persons providing such services, but in no event shall the rate exceed [Maximum Hourly Rate] per hour. Advertiser may elect in advance to be charged

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on this hourly rate basis. If Advertiser fails to notify Agency of its choice, it shall be presumed that Advertiser elected to be charged on an hourly rate basis.

C. In the event that Agency undertakes, at Advertiser's request subject to Advertiser's prior approval, special projects such as those described in Section 1.F above, Agency shall prepare an estimate of total charges for any such special project, including any charges for materials or services purchased from outside sources. In the event that Advertiser elects to proceed with the special project based upon Agency's estimated cost, Agency shall perform the services with respect to such special project at its estimated cost, subject to modification as mutually agreed by the parties.

D. For any special project or other services provided by Agency pursuant to this Agreement upon which the parties have not agreed as to charges, Advertiser shall pay Agency at its regular hourly rate, not to exceed [Dollar Amount] per hour.

E. Advertiser shall not be obligated to reimburse Agency for any travel or other out-of-pocket expenses incurred in the performance of services pursuant to this Agreement unless expressly agreed by Advertiser in advance.

5. Billing.

A. Agency shall invoice Advertiser for all media costs, where possible, in advance of Agency's payment date to allow for prepayment by the Advertiser so that Advertiser may receive the benefit of any available prepayment or similar discount. For any media purchase or service for which Agency is not entitled to a commission, Agency shall ensure that the charges to Advertiser are net of all agency commissions and discounts.

B. Charges for production materials and services shall be billed by Agency upon completion of the production job or, if cash discounts are available, upon receipt of the supplier's invoice.

C. On all outside purchases other than for media, Agency shall attach to the invoice proof of the supplier's charges.

D. All cash discounts on Agency's purchases including, but not limited to, media, art, printing and mechanical work, shall be available to Advertiser, provided that Advertiser meets Agency's requisite billing terms and there is no outstanding indebtedness of Advertiser to Agency at the time of the payment to the supplier.

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E. Rate or billing adjustments shall be credited or charged to Advertiser on the next following regular invoice date or as soon as otherwise practical.

F. Invoices shall be submitted in an itemized format and shall be paid by Advertiser within thirty (30) days of the invoice date.

6. Competitors.

During the term of this Agreement, Agency [May/May Not] accept employment from, render services to, represent or otherwise be affiliated with any person, firm, corporation or entity in connection with any product or service directly or indirectly competitive with or similar to any product or service of Advertiser with respect to which the Agency is providing any service pursuant to this Agreement.

7. Cost Estimates.

Agency shall not commence work on any project pursuant to this Agreement without first estimating costs for preparation, including copy, service, layout, art, engraving, typography, processing, paste up and production. After determining the estimated cost, completion of the work shall be subject to Advertiser's prior approval.

8. Audit Rights.

Agency agrees that following reasonable prior notice any and all contracts, agreements, correspondence, books, accounts and other information relating to Advertiser's business or this Agreement shall be available for inspection by Advertiser and Advertiser's outside accountants, at Advertiser's expense.

9. Ownership and Use.

A. Agency shall insure, to the fullest extent possible under law, that Advertiser shall own any and all right, title and interest in and to, including copyrights, trade secret, patent and other intellectual property rights, with respect to any copy, photograph, advertisement, music, lyrics, or other work or thing created by Agency or at Agency's direction for Advertiser pursuant to this Agreement and utilized by Advertiser.

B. Upon termination, Advertiser agrees that any advertising, merchandising, package, plan or idea prepared by Agency and submitted to Advertiser (whether submitted separately or in conjunction with or as a part of other material) which Advertiser has elected not to utilize, shall

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remain the property of Agency, unless Advertiser has paid Agency for its services in preparing such item. Advertiser agrees to return to Agency any copy, artwork, plates or other physical embodiment of such creative work relating to any such idea or plan which may be in Advertiser's possession at termination or expiration of this Agreement.

C. Materials and advertisements created by Agency pursuant to this Agreement may be used by Advertiser outside the United States without additional compensation, provided that Advertiser shall be responsible for any additional expense associated with such use, such as charges for translation and amounts due talent. Agency's obligations in Section 10.A. above shall not apply with respect to any such foreign use.

10. Indemnification and Insurance.

A. Agency shall indemnify and hold Advertiser harmless with respect to any claims, loss, suit, liability or judgment suffered by Advertiser, including reasonable attorney's fees and costs, based upon or related to any item prepared by Agency or at Agency's direction, including, but not limited to, any claim of libel, slander, piracy, plagiarism, invasion of privacy, or infringement of copyright or other intellectual property interest, except where any such claim arises out of material supplied by Advertiser and incorporated into any materials or advertisement prepared by Agency. Agency agrees to procure and maintain in force during the term of this Agreement, at Agency's expense, an advertising agency liability policy or policies having a minimum limit of at least [Insurance Policy Amount], naming Advertiser as an additional insured and loss payee under such policy or policies.

B. Advertiser agrees to indemnify and hold Agency harmless with respect to any claims, loss, liability, damage or judgment suffered by Agency, including reasonable attorney's fees and court costs, which results from the use by Agency of any material furnished by Advertiser or where material created by Agency or at the direction of Agency subject to the indemnification in subsection A. above is materially changed by Advertiser. Information or data obtained by Agency from Advertiser to substantiate claims made in advertising shall be deemed to be "material furnished by Advertiser to Agency".

C. In the event of any proceeding, litigation or suit against Advertiser by any regulatory agency or in the event of any court action or other proceeding challenging any advertising prepared by Agency, Agency shall assist in the preparation of the defense of such action or proceeding and cooperate with Advertiser and Advertiser's attorneys.

11. Term.

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The term of this Agreement shall commence on [Start Date] and shall continue in full force and effect until terminated by either party upon at least ninety (90) days prior written notice, provided that in no event (except breach) may this Agreement be terminated prior to [Earliest End Date]. The rights, duties and obligations of the parties shall continue in full force during or following the period of the termination notice until termination, including the ordering and billing of advertising in media whose closing dates follow then such period.

12. Rights Upon Termination.

A. Upon termination of the Agreement, Agency shall transfer, assign and make available to Advertiser all property and materials in Agency's possession or subject to Agency's control that are the property of Advertiser, subject to payment in full of amounts due pursuant to this Agreement

B. Upon termination, Agency agrees to provide reasonable cooperation in arranging for the transfer or approval of third party's interest in all contracts, agreements and other arrangements with advertising media, suppliers, talent and others not then utilized, and all rights and claims thereto and therein, following appropriate release from the obligations therein.

13. Default.

In the event of any default of any material obligation by or owed by a party pursuant to this Agreement, then the other party may provide written notice of such default and if such default is not cured within ten (10) days of the written notice, then the non-defaulting party may terminate this Agreement.

14. Notices.

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to Advertiser:

[Advertiser]

[Advertiser's Address]

If to Agency:

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[Agency]

[Agency's Address]

15. Headings.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

16. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

17. Governing Law.

This Agreement shall be construed and enforced in accordance with the laws of the state of [State of Governing Law].

IN WITNESS WHEREOF, the parties hereto have executed this Advertising Agency Agreement as of the date first above written.

[Advertiser] Signature Block [Agency] Signature Block

[Advertiser] Signature Block [Agency] Signature Block

[Advertiser] Signature Block [Agency] Signature Block

[Advertiser] Signature Block [Agency] Signature Block

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