

TRADEMARK LICENSE AGREEMENT

This TRADEMARK LICENSE AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 200_ ("Effective Date") between [____], a [____] non-profit corporation ("Client") and _____, a _____ ("Licensee").

BACKGROUND

Client is dedicated to [____]. Client owns the trademarks set out in Exhibit A of this Agreement. Licensee wishes to license such trademarks. Client is willing to grant such a license on the terms and conditions described in this Agreement, having determined that such a license is consistent with and furthers Client's mission.

WIKIMEDIA AND LICENSEE AGREE AS FOLLOWS:

1. Definitions. The following capitalized terms shall mean the following:

1.1. "Licensed Mark" or "Licensed Marks" means all of the trademarks in the form shown on Exhibit A.

1.2. "Licensed Product" or "Licensed Products" means any products that bear the Licensed Marks.

1.3. "Licensed Use" or "Licensed Uses" means the purposes for which the Licensed Marks may be used under this Agreement as specified in Exhibit B.

1.4. "Trademark Use Guidelines" means the guidelines specified in Exhibit C.

2. Grant and Scope of License

2.1. Grant of License. Subject to the terms and conditions of this Agreement, Client grants to Licensee a non-exclusive, non-transferable, non-sublicensable, worldwide license to use the Licensed Marks solely for the Licensed Uses.

2.2. Limited Purpose. Licensee shall not, without prior written consent of Client, use the Licensed Marks in connection with any activities other than the Licensed Uses.

3. Royalties. Licensee shall pay to Client royalties in the amounts and manner specified in Exhibit D.

4. Term.

4.1. Initial Term. This Agreement shall commence on the Effective Date and shall expire on the first anniversary of the Effective Date, unless earlier terminated as provided in Section 10.

4.2. Renewal. This Agreement may be renewed for successive one-year terms. If Licensee wishes to renew this Agreement, Licensee must deliver to Client a written request to renew no later than

ninety (90) days before the expiration of the current term. This Agreement may be renewed only if Licensee is in compliance with all terms and conditions contained in this Agreement at the time the request to renew is delivered and again at the time of commencement of the renewal term. Client shall notify Licensee, no later than thirty (30) days before the expiration of the current term, whether or not the Agreement will be renewed, it being understood that Client may make that decision in its sole discretion. If the Agreement is not renewed, it will terminate at the end of the current term. Failure by Licensee to timely deliver a notice of renewal shall be treated as a final decision not to renew.

5. Use of Licensed Marks

5.1. Form. Licensee shall use the Licensed Marks only in the form set forth on Exhibit A and in accordance with the Trademark Use Guidelines. Each may be altered from time to time by Client. Licensee shall include where appropriate the designations ® or ™ and a statement that the Licensed Marks are used under license from Client. Licensee shall display all other notices and legends with respect to the Licensed Marks as are requested from time to time by Client.

5.2. No Derivatives. Unless Licensee obtains Client's prior written consent, Licensee shall not combine any of the Licensed Marks with any other trademark, word, symbol, letter, design, or mark. If Client gives such consent, Licensee agrees that Client shall own the new Licensed Mark.

5.3. No Confusion. Licensee shall not use, or permit any other person or entity in its control to use, any of the Licensed Marks as part of a corporate or division name or trade name, or in a way that creates the impression that Licensee and Client are related parties. Licensee shall not use any Licensed Marks in such a way so as to give the impression that the Licensed Marks are the property of Licensee.

5.4. No Endorsement. Licensee acknowledges that its use of the Licensed Marks does not imply Client's endorsement or sponsorship of Licensee or its products or services. Licensee shall not state or imply, orally or in writing, that Client or its officers, directors or employees endorse Licensee or its products or services.

5.5. No Disparagement of Client or Licensed Marks. Licensee shall not use any of the Licensed Marks in connection with any activity that disparages Client or its products or services, that damages the reputation for quality inherent in the Licensed Marks, that materially impairs the goodwill associated with the Licensed Marks, or that is in a context otherwise inconsistent with Client's values and mission.

6. Approval

6.1. Approval. At Licensee's sole expense, Licensee shall submit to Client, for Client's advance written approval, samples of all uses of the Licensed Marks, including, but not limited to, any Licensed Products, promotional materials, and webpage designs, at least ___ days prior to use. Client may object to any such sample by providing notice within ___ days of receipt such sample. Licensee shall promptly correct such sample and resubmit it for Client's approval through the same process. Client has no obligation to approve, review, or consider any use of the Licensed Marks which did not comply with the required submission procedure. Client has no obligation to return samples.

6.2. Compliance with Sample. All uses of the Licensed Marks shall conform to the sample approved by Client. Client may monitor all uses of the Licensed Marks. If Client determines that any use does not conform with an approved sample and not otherwise approved by Client, Licensee shall immediately stop the use entirely, and either (i) change the use to conform as confirmed by Client; or (ii) in the case of physical products bearing the Licensed Marks, destroy any inventory.

6.3. Withdrawal of Approval. Client may reasonably withdraw its approval of a use if the use is or becomes non-compliant under in Section 5. Upon receipt of written notice from Client of its

decision to withdraw approval of a use, Licensee must terminate this use of the Licensed Marks within [five] days.

7. Ownership

7.1. Ownership of Licensed Marks. Licensee acknowledges that it has no interest in the Licensed Marks other than the licenses granted under this Agreement and that Client shall remain the sole and exclusive owner of all right, title, and interest in the Licensed Marks. Licensee agrees that Licensee's use of the Licensed Marks and any goodwill in the Licensed Marks resulting from Licensee's use shall inure solely to the benefit of Client.

7.2. Ownership of Derivative Marks. Licensee shall not register or attempt to register any variation of Licensed Marks in any jurisdiction. If Licensee uses, registers, or applies to register any derivative of a Licensed Mark in violation of its obligations under this Agreement, Licensee shall, at Client's request, immediately cease the use of such mark and assign to Client all its rights in such mark, including any applications or registrations.

7.3. No Contest. Licensee shall not contest, oppose, or challenge Client's ownership of the Licensed Marks. Licensee shall do nothing to impair Client's ownership or rights in the Licensed Marks. Licensee shall not oppose Client's registration or use of the Licensed Marks, alone or with other words or designs, in any jurisdiction. Licensee shall not contest the fact that the licenses granted under this Agreement terminate upon termination or expiration of this Agreement.

7.4. No Obligation to Obtain or Maintain Marks. Client shall not be obligated to: (a) file any application for registration of any Licensed Mark, or to secure any rights in any Licensed Mark, (b) maintain any registration of a Licensed Mark, or (c) provide any assistance, except for the obligations expressly assumed in this Agreement.

8. Additional Obligations

8.1. Adverse Use by Third Parties. Licensee shall promptly notify Client should Licensee learn of use by a third party of any mark that is confusingly similar to any of the Licensed Marks or that may dilute or otherwise lessen the value of the Licensed Marks. Licensee shall take no action with respect to such use except with the prior written consent of Client. Client has the right, but no obligation, to take such action as it believes advisable for the protection of its rights in the Licensed Marks.

8.2. Allegations of Infringement. Licensee shall promptly notify Client should Licensee learn of any allegations that the Licensed Marks infringe on a third party's rights. Licensee shall take no action with respect to such allegations except with the prior written consent of Client.

8.3. Assistance. Licensee shall cooperate fully with Client to: (a) protect Client's rights in the Licensed Marks in the event of any legal or equitable action taken by Client, and (b) defend against any legal or equitable action challenging Client's rights in the Licensed Marks. Licensee shall assist Client in complying with any formalities to protect the Licensed Marks under U.S. or foreign law, such as registering the Licensed Marks, registering this Agreement, or recording Licensee as a registered user. Licensee shall execute any documents reasonably requested by Client, including, but not limited to, applications for recordation of Licensee as a registered user. Upon termination or expiration of this Agreement, Licensee shall execute any documents reasonably requested by Client to effect cancellation of any recordations made under this Section 8.3.

8.4. Confidentiality, Press Releases, and Public Statements. Except as required by law, Licensee shall keep the terms of this Agreement confidential and shall not disclose such terms to any third party other than such of Licensee's attorneys and accountants who need to know such terms in the performance of their duties to Licensee. Each party will obtain the other party's prior written consent

before making any press release, official public statement, or other announcement concerning this Agreement via any web logs, news groups, mailing lists, and similar communications media.

8.5. Compliance with Law. At its sole expense, Licensee shall comply with all applicable laws and regulations, and shall obtain all appropriate government approvals pertaining to the Licensed Uses.

9. Indemnification

9.1. By Licensee. Subject to Section 11 and except as to the matters as to which Client is required to indemnify Licensee under Section 9.2, Licensee shall defend, indemnify, and hold Client and its affiliates, directors, officers, employees and agents harmless from and against any liabilities, losses, claims, damages, costs, expenses, and settlement amounts (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with (a) any breach by Licensee of Licensee's obligations under this Agreement; (b) any claim arising from Licensee's use of the Licensed Marks including, but not limited to, any claims arising under consumer protection, unfair competition, advertising, intellectual property, tort, or contract laws; or (c) any other act or omission by Licensee. Client will promptly notify Licensee after receiving a claim for which Client, or other indemnified person, will seek indemnification.

9.2. By Client. Subject to Section 11 and except as to matters as to which Licensee is required to indemnify Client under Section 9.1, Client shall defend, indemnify and hold harmless Licensee and its affiliates, directors, officers, employees and agents against any and all liability, claims, causes of action, suits, damages and expenses (including reasonable attorneys' fees) which Licensee is or becomes liable for or may incur solely by reason of its use, in accordance with the terms and conditions of this Agreement, of the Licensed Marks, to the extent that such liability arises through infringement of another's trademark rights, provided and only to the extent that (a) Licensee's alleged use of the Licensed Marks is not in breach of this Agreement; (b) the claim was not caused by Licensee's gross negligence or willful misconduct; (c) Licensee gives Client timely written notice of any such claim so as not to prejudice its settlement or defense; and (d) Licensee gives Client the opportunity to assume sole control over and all necessary assistance with its settlement and defense.

10. Termination

10.1. Failure to Make Payments. If Licensee fails to make any royalty or other payments as specified in Exhibit D more than ___ days after such payment is due, Client may immediately terminate this Agreement by giving written notice to such effect. The termination shall be effective upon the giving of such notice.

10.2. Misuse, Confidentiality and Attempted Assignment. If Licensee breaches any of its obligations under Sections 2.2, 5.1, 5.2, 5.3, 5.4, 5.5, 8.4 or 12.1 of this Agreement, Client may immediately terminate this Agreement by giving written notice to such effect. The termination shall be effective upon the giving of such notice.

10.3. Dissolution and Insolvency. If Licensee (i) dissolves, liquidates, or ceases to engage in its business or (ii) commences any proceeding under any provision of the United States Bankruptcy Code, as amended, or under any bankruptcy or insolvency law, including assignments for the benefit of creditors, formal or informal moratoria, compositions, extension generally with its creditors, or proceedings seeking reorganization, arrangement, appointment of a custodian, receiver, or trustee, or other relief, Client may immediately terminate this Agreement by giving written notice to such effect. The termination shall be effective upon the giving of such notice.

10.4. Reputational Harm. If Licensee engages in any business or markets any services or products or otherwise engages in conduct which, in Client's sole opinion, reflects materially and unfavorably upon the reputation of Client or subjects or could subject Client to public disrepute, Client

may provide Licensee with written notice of a breach under this Section 10.4. If Licensee fails to cure the breach within ten (10) days after receipt of such notice, Client may terminate this Agreement upon delivery to Licensee of a written notice to that effect, with the termination effective upon delivery of such notice to Licensee. Client shall in its sole discretion determine whether the breach has been cured.

10.5. Other Breach by Licensee. If Licensee breaches any of its obligations under this Agreement, other than as set forth in Sections 10.1, 10.2, 10.3 and 10.4, Client may provide Licensee with written notice of the breach. If Licensee fails to cure the breach within ten (10) days after receipt of such notice, Client may terminate this Agreement upon delivery to Licensee of a written notice to that effect, with the termination effective upon delivery of such notice to Licensee. Client shall in its sole discretion determine whether the breach has been cured.

10.6. Effect of Termination. Upon termination or expiration of this Agreement, Licensee shall discontinue immediately all use of the Licensed Marks, and all rights of Licensee under the licenses granted under this Agreement shall immediately, automatically, and without consideration terminate and revert to Client.

10.7. Survival. The provisions of Sections 7, 9, 10, 11 and 12 shall survive termination of this Agreement regardless of the reason for termination.

11. Agreements Regarding Liability and Remedies

11.1. DAMAGES. NEITHER CLIENT NOR LICENSEE SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR INDIRECT DAMAGES ARISING OUT OF OR OTHERWISE RELATED TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF REVENUE, LOSS OF PROFIT OR LOSS OF USE) EVEN IF THE OTHER PARTY HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES.

11.2. Licensee Remedies and Claims. Licensee shall under no circumstance be entitled, directly or indirectly, to any form of compensation or indemnity from Client or to obtain an injunction, specific performance or other equitable remedy as a consequence of the termination or expiration of this Agreement for any reason. Licensee waives any claims it may have against Client arising from any alleged goodwill created by Licensee for the benefit of Client or from the alleged creation or increase of a market for products, services or other items bearing the Licensed Marks.

11.3. Client Liability. Client's total liability under this Agreement, under Section 9.2 or otherwise, shall not exceed [\$_____] [the sum of all royalties paid by Licensee to Client under this Agreement to the time of final determination of such liability].

11.4. Client Remedies. Notwithstanding any other provision of this Agreement, Client shall have all the rights and remedies which it may have, at law or in equity, with respect to: the termination of this Agreement; the collection of royalties or other amounts payable by Licensee under this Agreement; the enforcement of all rights relating to the establishment, maintenance, or protection of the Licensed Marks; and damages or equitable relief in connection with breach of this Agreement by Licensee. Licensee acknowledges that its failure to use the Licensed Marks or to cease use of the Licensed Marks in accordance with this Agreement will result in immediate and irreparable harm to Client, and understands that termination under Section 10 shall not be considered an exclusive remedy or in any way limit Client from enforcing other rights or remedies.

11.5. Attorney's Fees. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs, and, expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including but not limited to, such reasonable fees and expenses of attorneys and accountants, which shall include, but is not limited to, all reasonable fees, costs, and expenses of appeals.

11.6. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by California law. Licensee and Client each consent to the exclusive jurisdiction and venue of the state and federal courts of [____], California.

12. Other Provisions

12.1. Assignment by Licensee. Licensee may not assign its rights or delegate its duties under this Agreement without Client's prior written consent. Any attempted assignment by Licensee without Client's prior written consent shall be null and void.

12.2. Assignment by Client. Client shall have the right, without consent of or notice to Licensee, to assign or transfer its interest in this Agreement, to sell or otherwise transfer the Licensed Marks to a third party, or to engage in any merger, consolidation, sale of assets, reorganization, or other transactions.

12.3. Relationship of Parties. The relationship of Client and Licensee under this Agreement is that of independent contractors. Neither Client nor Licensee shall be deemed to be an employee, agent, partner, or legal representative of the other for any purpose and neither will have any right, power, or authority to create any obligation or responsibility on behalf of the other.

12.4. Entire Agreement. This Agreement, including the Exhibits, contains the entire agreement of Client and Licensee and supersedes all prior or contemporaneous communications, representations, understandings, and agreements, either oral or written, relating to the subject matter of this Agreement.

12.5. Understanding. It is understood and agreed that neither Licensee nor Client shall be, as a result of entry into or performance under this Agreement, obligated to renew or extend this Agreement or relationship in any respect, or to negotiate any such renewal or extension, or, on the part of Client, to offer a "first right of negotiation" or "right of refusal" for a renewed or new license, or to engage in any other transaction or relationship.

12.6. Amendment. This Agreement may not be amended except by a writing signed by both Licensee and Client which states that it is an amendment to this Agreement.

12.7. Waiver. Any waiver of the provisions of this Agreement or of the parties' rights or remedies under this Agreement must be in writing signed by an officer of the waiving party to be effective. Failure, neglect, or delay by a party at any time to enforce the provisions of this Agreement or its rights or remedies will not be construed as a waiver of such party's rights, power, or remedy under this Agreement. Waiver of any breach or provision of this Agreement shall not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

12.8. Severability. Should any one or more provisions of this Agreement be determined to be illegal, invalid, or unenforceable, all other provisions of this Agreement shall nevertheless be effective.

12.9. No Presumption Against Drafter. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party drafting the Agreement.

12.10. Taxes. Each party shall bear its own income and other taxes in connection with the transactions described in the Agreement.

12.11. Notices. Notices, approval, and consent under this Agreement shall be in writing and shall be delivered by mail, courier, fax, or email to the addresses set out on the signature page of this Agreement. Notices given in the manner provided by this Section 0 will be considered effective two (2) days after deposit in the mail, or the next business day if delivered by courier, fax, or email. The

addresses to which notices are to be given may be changed from time to time by notice delivered as provided above.

12.12. Counterparts. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original. Such counterparts together will constitute one and the same agreement.

* * * * *

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

CLIENT FOUNDATION, INC:

[LICENSEE]:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address:

Address: _____

Telephone Number:

Telephone Number: _____

Fax Number:

Fax Number: _____

Email Address: _____

Email Address: _____

Exhibits

- Exhibit A: Licensed Marks
- Exhibit B: Licensed Uses
- Exhibit C: Trademark Use Guidelines
- Exhibit D: Compensation

Licensed Marks

Licensed Uses

Trademark Use Guidelines

Compliance with the preceding guidelines shall not be construed as full compliance with this Agreement. Client may, in its sole discretion, determine that a particular use or practice, not expressly proscribed by these guidelines, is a breach of Section 5 of this Agreement.

Compensation

1. Royalties and Payments

1.1 Royalties. Licensee shall pay to Client royalties as follows:

[add provisions relating to measurement basis and royalty amount]

Licensee shall pay royalties as specified above to Client no later than ____ days after the end of each quarterly period.

1.2 Payment Mechanics. Licensee shall make royalty payments to Client in U.S. dollars by [check] [wire transfer] to:

[insert appropriate address/wire transfer information]

Licensee shall provide Client with written documentation of the payment within five (5) days of each such payment. If a payment is not received when due for any reason, interest shall accrue on the unpaid principal amount of such installment from and after the date on which it became due, at a rate equal to one percent (1%) over the base rate (expressed as an annual rate) announced from time to time by Bank of America as then in effect. If Client discovers any royalty underpayment by Licensee, then Licensee shall make, within thirty (30) days after Client's demand, all payments required to be made to correct and eliminate the underpayment.

2. Reporting and Recordkeeping

2.1 Monthly Royalty Statement. Within _____ days after the end of each calendar month, Licensee shall prepare and furnish to Client a monthly royalty statement for the preceding month.

2.2 Quarterly Royalty Statement. Licensee shall prepare and furnish to Client a quarterly royalty statement with respect to each quarterly period ended the last business day of March, June, September and December, within thirty (30) calendar days of the end of each such period. The quarterly royalty statement shall include a calculation of royalties and _____. Licensee shall include with each quarterly royalty statement a written certification of statement accuracy signed by the chief financial officer of Licensee.

2.3 Records and Audit Rights. Licensee shall at all times keep accurate accounts of all operations and transactions within the scope of this Agreement. During the term of this Agreement and for a period of five (5) years after its termination or expiration, Client, at Client's sole expense, may inspect and audit all the books of account of Licensee relating to performance by Licensee of its obligations under this Agreement.