MANUFACTURING AGREEMENT

This Agreement(the “Agreement”) is made and entered into this _____ day of _____, 20____, by and between _____, (the “Manufacturer”) whose legal mailing address is _____ and _____, (the “Client”), whose legal mailing address is _____.

The Client desires to obtain certain Services described hereunder from the Manufacturer.

The Client agrees to engage the Manufacturer as an independent contractor to perform such Services and the Manufacturer hereby agrees to provide such services to the Client.

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Services

Client hereby appoints Manufacturer to act as its sole and exclusive Manufacturer and the Manufacturer hereby agrees to provide the following manufacturing services to Client (the "Services"):

_____

_____

_____

Standard of Performance

Manufacturer hereby agrees that it shall follow the highest professional standards in performing all Services to be provided under this Agreement.

Disclosure of Know-How

After the execution of this agreement, the Client shall provide all necessary know-how, standards and specifications to the Manufacturer. The Client shall promptly inform the Manufacturer of any knowhow hereafter acquired by the Client. The Manufacturer shall be entitled to make and or retain any notes, records and memoranda relating to the Client's know-how and specifications necessary to provide the Services hereunder.

Term

This Agreement is effective on the date written above and shall expire on _____. The parties may extend this Agreement by mutual agreement.

Independent Contractor

Manufacturer shall provide the Services as an independent contractor and Manufacturer shall not act as an employee, agent or broker of the Client. As an independent contractor, Manufacturer will be solely responsible for paying any and all taxes levied by applicable laws on its compensation. Manufacturer understands that Client will not withhold any amounts for payment of any taxes from Manufacturer's compensation.

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Payment

During the term of this Agreement, Client shall pay the Manufacturer for its Services under this Agreement the sum of $_____. Payment shall be made by the _____ day of the _____following receipt of Manufacturer's invoice for the Services.

Expenses

The Client agrees to reimburse any pre-approved out of pocked expenses incurred by the Manufacturer in connection with the Services, including, but not limited to, travel expenses, audit fees, tax fees, payroll service fees, etc.

Confidentiality

Manufacturer in the course of performing the Services hereunder may gain access to certain confidential or proprietary information of the Client. Such Confidential Information shall include all information concerning the business, affairs, products, marketing, systems, technology, customers, end-users, financial affairs, accounting, statistical data belonging to the Client and any data, documents, discussion, or other information developed by Manufacturer hereunder and any other proprietary and trade secret information of Client whether in oral, graphic, written, electronic or machine-readable form. The Manufacturer agrees to hold all such Confidential Information of the Client in strict confidence and shall not, without the express prior written permission of Client, (a) disclose such Confidential Information to third parties; or (b) use such Confidential Information for any purposes whatsoever, other than the performance of its obligations hereunder. The obligations under this Section shall survive termination or expiration of this Agreement.

Termination

(a) Either party may terminate this Agreement for convenience by providing thirty (30) days written notice ("Termination Notice") to the other party.

(b) If a party violates its obligations to be performed under this Agreement, the other party may terminate the Agreement by sending a thirty (30) days' notice in writing. Upon receiving such notice, the defaulting party shall have thirty (30) days from the date of such notice to cure any such default. If the default is not cured within the required thirty (30) day period, the party providing notice shall have the right to terminate this Agreement.

Assignment

Manufacturer shall not assign any of their rights under this Agreement, or delegate the performance of any of the obligations or duties hereunder, without the prior written consent of the Client and any attempt by Manufacturer to so assign, transfer, or subcontract any rights, duties, or obligations arising hereunder shall be void and of no effect.

Notices

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during receiving party's regular business hours or by facsimile before or during receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses heretofore below, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

Governing Law

This Agreement is to be construed in accordance with and governed by the laws of the State of _____.

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Dispute Resolution

All disputes under this Agreement shall be settled by arbitration before a single arbitrator pursuant to the commercial law rules of the American Arbitration Association. Arbitration may be commenced at any time by any party hereto giving written notice to the other party to a dispute that such dispute has been referred to arbitration. Any award rendered by the arbitrator shall be conclusive and binding upon the parties hereto.
This provision for arbitration shall be specifically enforceable by the parties and the decision of the arbitrator in accordance herewith shall be final and binding without right of appeal.

Severability

If any provision of this Agreement shall be held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and, the remaining provisions of this Agreement shall remain in full force and effect.

Limitation of Liability

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION, BUSINESS INTERRUPTION, LOSS OF OR UNAUTHORIZED ACCESS TO INFORMATION, DAMAGES FOR LOSS OF PROFITS, INCURRED BY THE OTHER PARTY ARISING OUT OF THE SERVICES PROVIDED UNDER THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL NEITHER PARTY'S LIABILITY ON ANY CLAIM, LOSS OR LIABILITY ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT SHALL EXCEED THE AMOUNTS PAID TO MANUFACTURER DURING THE _____ MONTHS PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM OR ACTION BY CLIENT.
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Indemnification

Each party shall at its own expense indemnify and hold harmless, and at the other party's request defend such party its affiliates, subsidiaries, successors and assigns officers, directors, employees, sublicensees, and agents from and against any and all claims, losses, liabilities, damages, demand, settlements, loss, expenses and costs (including attorney's fees and court costs) which arise directly or indirectly out of or relate to (a) any breach of this Agreement, or (b) the gross negligence or willful misconduct of a party's employees or agents;

Entire Agreement; Amendment

This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior or contemporaneous representations, discussions, proposals, negotiations, conditions, communications and agreements, whether written or oral, between the parties relating to the subject matter hereof and all past courses of dealing or industry custom. No modification of or amendment to this Agreement shall be effective unless in writing and signed by each of the parties.

Waiver

The waiver by either party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

IN WITNESS WHEREOF, the parties have signed this Agreement on the dates indicated below their signatures.

_____

_____

Dated _____

_____

_____

Dated _____

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