

MERCHANDISING LICENSE AGREEMENT

This MERCHANDISING LICENSE AGREEMENT ("**Agreement**"), dated as of May 23, 2022 (the "**Effective Date**"), is made by and between by and between THE CITY OF LONG BEACH, a New York municipal corporation having a place of business at 1 West Chester Street, Long Beach, New York 11561 ("**Licensor**"), and MAIN STREET SCREEN PRINTING AND EMBROIDERY, LLC having a place of business at 348 Main Street, Center Moriches, New York 11934 ("**Licensee**"). (Hereinafter the Licensor and Licensee may be referred to collectively as the "Parties").

WHEREAS, Licensor is the owner of the Licensed Property (as defined below); and

WHEREAS, Licensee wishes to use the Licensed Property in connection with the Licensed Products (as defined below), and Licensor is willing to grant Licensee a license to use the Licensed Property on the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. For purposes of this Agreement, the following terms have the following meanings:

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the [possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise/ownership, beneficially or of record, of more than 10% of the voting securities of a Person.

"**Channels of Distribution**" means: Direct to consumer, internet based sales.

"**Collateral**" means all artwork, packaging, labeling, copy, text, and all other written, printed, graphic, electronic, audio, or video advertising and promotional materials used or created for use in connection with any advertising and promotion of the Licensed Products.

"**Confidential Information**" has the meaning set forth in Section 9.

"**Guarantee**" has the meaning set forth in Section 8.2.

"**Indemnified Claim**" has the meaning set forth in **Error! Bookmark not defined.**11.2.

"**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, award, decree, other requirement, or rule of law of any federal, state, local, or foreign government, or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

"**Licensed Property**" means the following property or properties, solely as and to the extent depicted in **Appendix A**, which depicts: The word "CELEBRATING" in an arch above the number "100" where the center "0" contain an image in the center of the sun in the horizon (white and yellow), above a rolling ocean wave (white and blue), which is above a boardwalk railing (blue), and the boardwalk planks on an angle (yellow outlined in blue); the center "0" also has the following phrase in white font within body of the font "- Long Beach NY – Centennial" ("LONG BEACH NY" is along the top arch, and "CENTENNIAL" is located within the bottom arch); a banner running through the number: "1" (the number "1" is bold and blue, with a thin yellow line in the middle [similar to a solid line on the highway]) to the left edge of the center "0" with the year "1922" in it; the banner extends from the right side edge of the center "0" through the second "0" of the number "100" with the year 2022 in it; the second "0" of the number 100" is shaped as a backwards letter "C" (the second number "0" is bold and blue, with a thin yellow line in the middle [similar to a solid line on the highway]); centered under the number "100" is the word "YEARS" with two horizontal lines shaped like an elongated equal sign "=" on the left and right sides of the word "YEARS".

"**Licensee**" has the meaning set forth in the preamble.

"**Licensor**" has the meaning set forth in the preamble.

"**Licensor Indemnified Party**" has the meaning set forth in Section 11.1.

"**Losses**" means losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"**Marketing Date**" means the date no earlier than the Effective Date, and no later than December 31, 2022, by when Licensee shall commence marketing of the Licensed Products (i.e., introduction to the trade).

"**Net Sales**" means the gross amount received by Licensor for any and all products sold bearing the

"**Person**" means an individual, corporation, partnership, joint venture, Limited Liability Company, governmental authority, unincorporated organization, trust, association, or other entity.

"**Quarterly Period**" means each three-month period commencing on the 1st of January, 1st of April, 1st of July, and 1st of October.

"**Royalties**" has the meaning set forth in Section 8.3.

"**Sell-Off Period**" has the meaning set forth in Section 14.2.

"**Shipping Date**" means the date no earlier than the Effective Date, and no later than December 31, 2022 by when Licensee shall commence shipping the Licensed

Products to its customers so as to make them available for initial sale to the public or end consumers.

"**Term**" has the meaning set forth in Section 13.1.

"**Third-Party Claim**" has the meaning set forth in Section 11.1.

"**Work**" has the meaning set forth in Section 4.2.

2. License.

2.1 License Grant. Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive, non-transferable non-sublicensable right and license to use the Licensed Property during the Term solely in connection with the manufacture, promotion, advertising, distribution, and sale of the Licensed Products through the Channels of Distribution.

2.2 Business Names and Domain Names. Without Licensor's prior written consent, Licensee shall not use or register for use, the Licensed Property, or any element thereof, as part of (a) its corporate or trade name, or (b) any domain name.

2.3 Sublicensing. Licensee may grant to any Person a sublicense of any of its rights under this Agreement.

2.4 Reservation of Rights. Licensor reserves all rights not expressly granted to Licensee under this Agreement. No use by Licensor of the Licensed Property in any medium or manner will be deemed to interfere with the limited permissions made to Licensee by Licensor herein.

3. Use of the Licensed Property.

3.1 Compliance with Licensor's Directions. The Licensed Property will be displayed or used only in the form and manner specifically approved in writing by Licensor in advance, and will accurately represent the image as depicted in Appendix A.

4. Ownership and Registration.

4.1 Acknowledgment of Ownership. Neither this Agreement, nor any act, omission, or statement by Licensor or Licensee, conveys any ownership right in any of the Licensed Property, or to any element or portion thereof, or other materials provided by or on behalf of Licensor under this Agreement. Except for the licenses expressly granted to Licensee in this Agreement, Licensee acknowledges that all right, title, and interest in and to the Licensed Property, as well as any modifications or improvements made thereto by the Licensee, and the goodwill resulting from Licensee's use of the Licensed Property are owned by and will remain with Licensor. Licensee agrees not to dispute or challenge, or assist any Person in disputing or challenging, Licensor's rights in and to the Licensed Property or the validity of any trademark, copyright, or patent, and any applications therefor which may have been or may be filed in the future, relating to the Licensed Property.

4.2 Work for Hire. Licensee acknowledges and agrees that any and all works of authorship, technologies, inventions, discoveries, ideas, artwork, materials, or services, which have been or will be created, prepared, or performed by or on behalf of Licensee in connection with the exploitation of the Licensed Property pursuant to this Agreement (collectively, "**Work**"), is hereby deemed, to the extent possible, "work made for hire" for Licensor as defined in Section 101 of the Copyright Act of 1976, and all copyrights therein will automatically and immediately vest in the Licensor. To the extent that any Work does not constitute "work made for hire," Licensee hereby irrevocably assigns to Licensor and its successors and assigns, in each case for no additional consideration, all right, title, and interest (including the rights generally known as "moral rights") throughout the world in and to such Work, including all intellectual property rights therein and the rights to sue, counterclaim, and recover for all past, present, and future infringement, misappropriation, and dilution thereof, and all rights corresponding thereto throughout the world. Licensee agrees not to dispute or challenge or assist any person or entity in disputing or challenging Licensor's rights in and to the Work.

4.3 Waiver and License. Licensee hereby waives all claims Licensee may now or hereafter have to Licensee's moral rights in any Work. In the event that any of the rights in the Work cannot be assigned or, in the case of moral rights, waived, Licensee hereby grants to Licensor an exclusive, worldwide, irrevocable, perpetual, fully-paid, royalty-free, freely transferable license to use, reproduce, distribute, create derivative works of, publicly perform, and publicly display such Work for any purpose in any and all media now known and later devised. Licensee reserves no rights in or to the Work.

4.4 Licensee Restrictions. Licensee agrees that it shall not, during the Term or thereafter, directly or indirectly:

(a) do, omit to do, or permit to be done, any act which will or may dilute the Licensed Property, or tarnish or bring into disrepute the reputation of or goodwill associated with the Licensed Property or Licensor, or which will or may invalidate or jeopardize any registration of any rights in and to the Licensed Property or any element thereof;

(b) apply for, obtain, or assist any Person in applying for or obtaining any registration of any copyright, patent, trademark, or other designation, or take any other action, which would or may affect ownership of the Licensed Property; or

(c) state or imply that Licensor, or any Person related to the Licensed Property, endorses the Licensee, its products or services, or the Licensed Products.

5. Quality Control and Approvals.

5.1 Acknowledgment. Licensee acknowledges the high standards and reputation for quality symbolized by the Licensed Property, and Licensee shall, at all times, conduct its business and use the Licensed Property in a manner consistent with such quality standards and reputation.

5.2 Compliance with Licensor Specifications. Licensee shall comply with the specifications, standards, and directions relating to the Licensed Products, including their design, manufacture, promotion, packaging, distribution, and sale, as notified by Licensor from time to time.

5.3 Compliance with Laws. In exercising its rights under this Agreement, Licensee shall comply with, and shall ensure that each Licensed Product sold or otherwise supplied by Licensee complies with, all applicable Laws. Licensee shall promptly provide Licensor with copies of all communications with any governmental, regulatory, or industry authority that relate to the Licensed Property or the Licensed Products.

5.4 Submission of Materials for Approval. Licensee shall submit the Licensed Products and all Collateral including a reasonable number of production samples, in order to obtain Licensor's requisite approval of goods.

5.5 Rejected, Damaged, or Defective Products. Licensee shall not sell, market, distribute, or use for any purpose, or permit any third party to sell, market, distribute, or use for any purpose, any Licensed Products or Collateral, or any element or portion thereof, which are rejected by Licensor, or which are damaged or defective.

5.6 Complaints. Licensee shall promptly, upon Licensor's request, provide Licensor with details of any complaints it has received relating to the Licensed Products together with reports on the manner in which such complaints are being, or have been, dealt with and shall comply with any reasonable directions given by Licensor in respect thereof.

5.7 Subcontracting. Licensee shall not subcontract the manufacturing of the Licensed Products.

5.8 Product Recall. Licensee agrees to take all reasonable steps, which may include product recalls, to abate any health or safety risks posed by the Licensed Products as expeditiously as possible. Upon Licensor's written request, Licensee shall provide to Licensor, for Licensor's review and approval, a copy of Licensee's recall program for the Licensed Products. Licensee shall bear complete responsibility for determining if a product recall is required and for all costs and expenses associated with any recall of the Licensed Products.

6. Duty to Exploit License. Licensee shall: (a) use best efforts during the Term to promote and expand the supply of Licensed Products to the public in accordance with the terms and conditions of this Agreement; (b) commence marketing, advertising, and promotion of the Licensed Products on the Marketing Date; (c) provide such advertising and publicity as may reasonably be expected to bring the Licensed Products to the attention of as many potential purchasers as possible; and (d) ship the Licensed Products and make the Licensed Products available for sale on the Shipping Date.

7. Protection of the Licensed Property.

7.1 Notification. Licensee shall immediately notify Licensor in writing with reasonable detail of any: (a) actual, suspected, or threatened infringement of the Licensed

Property, claim that any of the rights in and to the Licensed Property is invalid, or opposition to any of the rights in and to the Licensed Property; (b) actual, suspected, or threatened claim that use of the Licensed Property infringes the rights of any third party; (c) any person applies for, or is granted, a registered trademark or copyright by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to Licensee under this Agreement; or (d) any other actual, suspected or threatened claim to which the Licensed Property may be subject.

7.2 Actions. With respect to any of the matters listed in Section 7.1: (a) Licensor has exclusive control over, and conduct of, all claims and proceedings; (b) Licensee shall provide Licensor with all assistance that Licensor may reasonably require in the conduct of any claims or proceedings; and (c) Licensor shall bear the cost of any proceedings and will be entitled to retain all sums recovered in any action for its own account.

8. Payments.

8.1 Guarantee. Licensee shall pay to Licensor the sum set forth below in § 8.2 "Royalties".

8.2 Royalties. Licensee shall pay to Licensor a royalty of SIXTY PERCENT (60%) of one hundred percent (100%) of Net Sales ("**Royalties**"). Royalties will accrue on the earliest of when a Licensed Product is sold, billed, invoiced, distributed, shipped, or paid for. Unless expressly provided otherwise in this Agreement, Licensee shall not, without Licensor's express prior written consent, permit the distribution or other marketing of any Licensed Products on a FOB basis.

8.3 Taxes. Royalties and other sums payable under this Agreement are exclusive of taxes [including value added tax (or similar tax)] and must be paid free and clear of all deductions and withholdings whatsoever, unless the deduction or withholding is required by law. If any deduction or withholding is required by law, Licensee shall pay to Licensor such sum as will, after the deduction or withholding has been made, leave Licensor with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding. If Licensee is required by law to make a deduction or withholding, Licensee shall, within ten (10) business days of making the deduction or withholding, provide a statement in writing showing the gross amount of the payment, the amount of the sum deducted, and the actual amount paid.

8.4 Manner of Payment. Licensee shall pay Royalties [and any other applicable sums] payable under this Section 8 within thirty (30) days following the end of each Quarterly Period in US dollars by Certified Check made Payable to the CITY OF LONG BEACH, and mailed to:

- City of Long Beach,
Attn: Comptroller's Office
1 West Chester Street, Room 503,
Long Beach, New York 11561

8.5 Royalty Statements. At the same time as payments of Royalties are made, Licensee shall submit or cause to be submitted to Licensor a statement in writing, certified to be true and correct by Licensee's Chief Financial Officer that includes all information relevant to the calculation of such Royalties, including:

- (a) the Quarterly Period for which the Royalties were calculated;
- (b) a description of the Licensed Products;
- (c) the amount of Royalties due and payable;
- (d) for each Licensed Product, the following information cross-referenced against the applicable "sku" number:
 - (i) the wholesale price;
 - (ii) the invoice price;
 - (iii) the quantity invoiced;
 - (iv) the Royalties rate; and
 - (v) deductions for actual cash or credit returns, including the amount and quantity.
- (e) the amount of any withholding or other income taxes deductible or due to be deducted from the amount of Royalties due and payable; and
- (f) any other details Licensor may reasonably require.

8.6 Records and Audit. Licensee shall keep complete and accurate books and records covering all matters and transactions relating to this Agreement. Such books and records must be kept separate from any books and records not relating solely to the Licensed Products. During the Term, and for a period of seven (7) years following termination or expiration of the Agreement, Licensor (or its authorized representative) shall have the right, upon reasonable notice, to examine and copy and otherwise audit such books and records during normal business hours solely for the purpose of verifying the payments made under this Section 8]. If such inspection or audit should reveal a discrepancy in the Royalties paid from those payable under this Agreement, Licensee shall immediately make up the shortfall, and reimburse Licensor for any professional charges incurred for such audit or inspection.

9. Confidentiality. From time to time, Licensor may disclose or make available to Licensee information about its business affairs, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, including business operations and strategies, marketing, creative elements, underlying literary material, artwork, visual representations, research material and data, specifications, processes, and technological developments, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" (collectively,

"**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure: (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Section by Licensee; (b) is or becomes available to Licensee on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of Licensee before being disclosed by or on behalf of Licensor; or (d) was or is independently developed by Licensee without reference to or use, in whole or in part, of any of Licensor's Confidential Information. Licensee shall: (i) protect and safeguard the confidentiality of Licensor's Confidential Information with at least the same degree of care as Licensee would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use Licensor's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any person or entity, except: (A) to Licensee's officers, employees, agents, consultants, and legal advisors who need to know the Confidential Information to assist Licensee, or act on its behalf, to exercise its rights or perform its obligations under the Agreement, or (B) pursuant to applicable federal, state, or local law or regulation, or a valid order issued by a court or governmental agency of competent jurisdiction, provided that Licensee shall first make commercially reasonable efforts to provide Licensor with: (1) prompt written notice of such requirement so that Licensor may seek, at its sole cost and expense, a protective order or other remedy; and (2) reasonable assistance, at Licensor's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.

10. Representations and Warranties.

10.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that:

(a) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the Laws of its jurisdiction of incorporation or organization;

(b) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder;

(c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized to enter into this agreement; and

(d) when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

10.2 Licensor's Representations and Warranties. Licensor represents and warrants, solely to and for the benefit of Licensee, that it owns the Licensed Property that is the subject of this agreement.

10.3 Licensee's Representations and Warranties. Licensee represents and warrants, during the Term and thereafter, that:

(a) Licensee will manufacture, advertise, promote, sell, and distribute the Licensed Products in accordance with the terms and intent of this Agreement, and will not take any action that would prevent or impede its ability to do so;

(b) Licensee will: (i) comply, and will ensure that the Licensed Products comply, with all applicable Laws, including those relating to product safety, data protection, consumer protection, environmental protection, advertising, and other similar laws, labor and employment laws, and all applicable industry standards and regulations relating or pertaining to the manufacture, advertising, promotion, sale, distribution, and use of the Licensed Products; and (ii) promptly notify Licensor if any government agency, regulatory body, or court advises Licensee that Licensee is not in compliance with any of the foregoing or requests or requires Licensee to discontinue, remove, or withdraw any of the Licensed Products from the market for any reason; and

(c) Licensee will insure that the Licensed Products and all Work created by Licensee, solely or jointly with any third party, in connection with this Agreement are and will be wholly original or fully cleared by Licensee, who will obtain all required authorizations, consents, and releases and will pay all required compensation to third parties, and that the Licensed Products (specifically excluding the Licensed Property) will not violate or infringe any copyright, patent, trademark, trade secret, right of publicity or privacy, or any other right of any third party.

10.4 Disclaimer of Representations and Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 10, LICENSOR EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE LICENSED PROPERTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE.

11. Indemnification and Insurance.

11.1 Indemnification by Licensee. Licensee shall defend, indemnify, and hold harmless Licensor, Licensor's Affiliates, and its, directors, officers, employees, agents, successors, and assigns (each, a "**Licensor Indemnified Party**") from and against all Losses arising out of [or in connection with] any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") related to: (a) any actual or alleged breach by Licensee of any representation, warranty, covenant, or obligation under this Agreement; (b) the exercise by Licensee or any of its Affiliates of the rights granted under this Agreement, including any product liability claims or third-party intellectual property rights infringement claims relating to the Licensed Products or their advertising and promotion; or (c) infringement, dilution, or other violation of any intellectual property or other rights of any Person resulting from the manufacture, promotion, advertising, distribution, or sale of Licensed Products; in

each case except to the extent any such Third-Party Claim is based solely on the infringement, dilution, or other violation of any intellectual property or other personal or proprietary rights of any Person arising out of Licensee's use of the Licensed Property in accordance with this Agreement.

11.2 Insurance.

(a) At all times during the Term of this Agreement, and for a period of three (3) years thereafter, Licensee shall procure and maintain, at its sole cost and expense commercial general liability insurance with limits no less than \$1,000,000., per occurrence and \$2,000,000.00 in the aggregate, including bodily injury and property damage and products and completed operations and advertising liability, which policy will include contractual liability coverage insuring the activities of Licensee under this Agreement.

(b) All insurance policies required pursuant to this Section must:

(i) be issued by insurance companies with a Best's Rating of no less than A-VII.

(ii) provide that such insurance carriers give Licensor at least 30 days' prior written notice of cancellation or non-renewal of policy coverage; provided that, prior to such cancellation, Licensee shall have new insurance policies in place that meet the requirements of this Section ;

(iii) waive any right of subrogation of the insurers against Licensor;

(iv) provide that such insurance is primary insurance and any similar insurance in the name of and/or for the benefit of Licensor is excess and non-contributory; and

(v) name Licensor (The City of Long Beach and Licensor's Indemnified Parties), including, in each case, all successors and permitted assigns, as additional insureds.

(c) Licensee shall provide Licensor with copies of the certificates of insurance and policy endorsements required by this Section within ten days of the effective date, and shall not do anything to invalidate such insurance.

12. Remedies.

12.1 No Equitable Relief. Notwithstanding any other provision to the contrary in this Agreement, Licensee acknowledges and agrees that (a) monetary damages at law are a fully adequate remedy to compensate Licensee for any breach or threatened breach of this Agreement by Licensor, and (b) an action at law for monetary damages is Licensee's sole and exclusive remedy for any such breach. No breach by Licensor of this Agreement will entitle Licensee to equitable relief, including specific performance, injunctive relief, rescission, or any other form of equitable remedy. Without limiting the generality of the

immediately preceding two sentences, Licensee shall not seek equitable relief to rescind this Agreement or any grant of rights to Licensor hereunder or seek injunctive relief to enjoin or otherwise restrain or limit the [development, production, distribution, advertising, promotion, publicity, or other exploitation] of the Licensed Property or any rights therein.

12.2 Equitable Relief. Licensee acknowledges that a breach by Licensee of this Agreement may cause Licensor irreparable damages, for which an award of damages would not be adequate compensation, and agrees that, in the event of such breach or threatened breach, Licensor will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which Licensor may be entitled at law or in equity. Such remedies are not exclusive but are in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

12.3 Limitation of Liability. LICENSOR WILL NOT BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, SPECIAL, OR EXEMPLARY DAMAGES OR PENALTIES, INCLUDING LOSSES OF BUSINESS, REVENUE, OR ANTICIPATED PROFITS, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. Term and Termination.

13.1 Term. This Agreement will commence as of the Effective Date and, unless terminated earlier in accordance with Section , will remain in force until it shall expire, on December 31, 2022 (the "**Term**").

13.2 Termination for Cause. Licensor has the right to terminate this Agreement immediately by giving written notice to Licensee if:

(a) Licensee fails to pay any amount due under this Agreement on the due date for payment and remains in default not fewer than seven days after being notified in writing to make such payment;

(b) Licensee breaches this Agreement (other than failure to pay any amounts due under this Agreement) and if such breach is curable fails to cure such breach within 14 days of being notified in writing to do so;

(c) Licensee (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven business days or is not dismissed or vacated within 45 days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business;

(d) Licensee challenges Licensor's ownership of the Licensed Property or the validity of any trademark, copyright, or patent, and any applications therefor;

14. Post-Termination Rights and Obligations.

14.1 Effect of Termination. On expiration or termination of this Agreement for any reason and subject to any express provisions set out elsewhere in this Agreement:

(a) all outstanding amounts payable by Licensee to Licensor will immediately become due and payable;

(b) [in the case of termination by Licensor pursuant to Section 13.2, in addition to or instead of Licensor's right of termination as provided herein, Licensor will have the right to declare the Guarantee immediately due and payable;

(c) all rights and licenses granted pursuant to this Agreement will cease and revert immediately to Licensor, who will be free to license without limitation such rights to any other Person;

(d) Licensee shall cease all use of the Licensed Property shall provide Licensor with adequate and appropriate proof of same;

(e) Licensee shall cooperate with Licensor in the cancellation of any licenses recorded pursuant to this Agreement and shall execute such documents and do all acts and things as may be necessary to effect such cancellation;

(f) Licensee shall promptly return to Licensor or, at Licensor's option, destroy, at Licensee's expense, all records and copies of technical and promotional material in its possession relating to the Licensed Products, and any Confidential Information of Licensor and all copies thereof;

(g) within 21 days after the date of expiration or termination, Licensee shall deliver to Licensor a statement, certified by an authorized representative of Licensee, showing the quantity and description of Licensed Products and Collateral then on-hand, held for Licensee's inventory, or in the process of manufacture.

(h) 21 after the date of expiration or termination, Licensee shall deliver to Licensor or any other person designated by Licensor, or at Licensor's option, destroy, at Licensee's expense, all Licensed Products that it has not disposed in accordance with Section 14.2.

14.2 Sell-Off Period. On expiration or termination of this Agreement for any reason other than termination by Licensor pursuant to Section 13.2, Licensee will for a period of 30 days after the date of termination (the "**Sell-Off Period**") have the right to dispose of all stocks of Licensed Products in its possession in accordance with the terms and conditions of this Agreement, provided that any royalty payable under the provisions of this agreement (as if such stocks were supplied at the date of termination) is paid to Licensor within 30 days after termination. Licensee shall not manufacture additional quantities of the Licensed

Products during any applicable Sell-Off Period. Licensee's right of sell-off will terminate automatically if Licensee breaches any term, condition, obligation, representation, or warranty herein during the Sell-Off Period.

15. Miscellaneous.

15.1 Interpretation. For purposes of this Agreement, (i) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; and (iii) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. This Agreement is intended to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

15.2 Further Assurances. Each party shall, upon the reasonable request, and at the sole cost and expense, of the other party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

15.3 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder must be in writing and will be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier, return receipt requested; (c) on the date sent by facsimile or email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient; and (d) on the day receipt is confirmed via return receipt, by certified or registered mail (in each case, return receipt requested, postage prepaid). Such communications must be sent to the respective parties at the following addresses:

If to Licensor:

City of Long Beach
1 West Chester Street, Room 402
Long Beach, New York
Phone: (516) 431-1003
Email: corp@longbeachny.gov
Attention: Corporation Counsel

If to Licensee:

Main Street Screen Printing and Embroidery, LLC
348 Main Street
Center Moriches, NY 11934
Phone: (631)400-9400
Email: ScreenPrintingonMainStreet@gmail.com
Attention: Joseph Ditillo, Owner

15.4 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

15.5 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein,

express or implied, is intended to or will confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

15.6 Waiver of Jury Trial. Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any claim, suit, action, or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

15.7 Entire Agreement. This Agreement, together with all Exhibits hereto [and any other documents incorporated herein by reference], constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

15.8 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect the enforceability of any other term or provision of this Agreement, or invalidate or render unenforceable such term or provision in any other jurisdiction. [Upon a determination that any term or provision is invalid, illegal, or unenforceable, [the parties shall negotiate in good faith to/the court may] modify this Agreement to effect the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.]

15.9 Assignment. Licensee shall not assign any of its rights or delegate any of its obligations under this Agreement.

15.10 Choice of Law; Venue. This Agreement and all matters arising out of this Agreement, including tort and statutory claims are governed by the laws of New York.

15.11 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.

15.12 Amendment and Modification. No amendment or modification to this Agreement is effective unless it is in writing and signed by an authorized representative of each party.

15.13 Waiver. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

15.14 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same

agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, Licensor and Licensee have caused this Agreement to be executed as of the date first written above by their respective duly authorized officers.

CITY OF LONG BEACH

By: 

Name: Donna M. Gayden

Title: City Manager

MAIN STREET SCREEN PRINTING AND
EMBROIDERY, LLC

By: 

Name: Joseph Ditillo

Title: Owner

APPENDIX A

Below is the image of the Licensed Property:

