

## ISENTRY TRADE MARK CONDITIONS

The following conditions are an integral part of the **Primary Member User Agreement** entered on the **Effective Date** between **ISENTRY** and the **Primary Member User** referred to herein for ease of reference as the **Licensee** with respect to the Use of Licensed Marks and Marks for the Licensed Products. These conditions comprise part of the Primary Member User Documentation referred to in the Primary Member User Agreement and words and expressions defined in the Primary Member User Documentation shall bear the same respective meanings in these conditions:

### 1. Grant.

(a) *Grant of License.* Subject to the terms and conditions hereof, ISENTRY hereby grants to Licensee, and Licensee hereby accepts from ISENTRY, for the term of the Primary Member User Agreement, a non-transferable, royalty-free license to use the Marks (referred to herein as the "**Licensed Marks**") solely for and in connection with the resale or distribution or use of the Licensed Products to Individual Users of the Licensee or for such other use or purpose as ISENTRY may from time to time approve in writing (referred to herein as a "**Permitted Use**") in or from the Territory. "**Marks**" means the trade and service marks of ISENTRY or its affiliates, whether used individually or collectively and whether registered or unregistered, described or otherwise referred to herein (as may be amended from time to time by ISENTRY and notified to Licensee).

(b) *Related Equipment.* The rights granted hereunder to Licensee shall not include the right to manufacture equipment or products under the Licensed Marks. However, subject to the terms and conditions hereof, ISENTRY hereby grants to Licensee, and Licensee hereby accepts from ISENTRY, for the term of this agreement, a non-transferable, royalty-free license to use the Licensed Marks on related equipment approved by ISENTRY for Licensed Products, provided that such use is solely for and in connection with a Permitted Use.

### 2. Quality Standards and maintenance

#### 2.1 Maintenance of Quality:

(a) Adherence to Quality Standards. In connection with a Permitted Use of the Licensed Marks, Licensee shall maintain and adhere to standards of quality and specifications that conform to or exceed those quality standards and technical and operational specifications adopted and/or amended in the manner provided below ("**Quality Standards**") and those imposed by the law governing these conditions. Such Quality Standards are designed to ensure that the quality of the Licensed Products are consistent with the high reputation of the Licensed Marks and are in conformity with applicable laws and regulations.

(b) Establishment of Quality Standards. The parties acknowledge that the initial Quality Standards for the Licensed Products shall be consistent with the reputation for quality associated with the Licensed Marks and (ii) be commensurate with a high level of quality (taking into account ISENTRY's fundamental underlying technology and standards), consistent with the level of quality being offered in the market for products and services of the same kind as the Licensed Products.

(c) Changes in Quality Standards. In the event that ISENTRY wishes to change the Quality Standards, it will notify Licensee in writing of such proposed amendments, and will afford Licensee a reasonable time period in which to adopt such changes as may be required in order for Licensee to conform to the amended Quality Standards.

2.2. *Rights of Inspection.* In order to ensure that the Quality Standards are maintained, ISENTRY and its authorized agents and representatives shall have the right, but not the obligation, with

prior notice to Licensee, to require the Licensee with respect to Licensed Products, at all reasonable times, to provide evidence of the Use of the Licensed Products and, with prior written notice to Licensee, to inspect the books and records of Licensee in a manner that does not unreasonably interfere with the business and affairs of Licensee, all as they relate to the compliance with the Quality Standards maintained hereunder.

2.3. *Marking Compliance with Trademark Laws.* Licensee shall cause the appropriate designation "(TM)" or "(sm)" or the registration symbol "(R)" to be placed adjacent to the Licensed Marks in connection with the use thereof and to indicate such additional information as ISENTRY shall reasonably specify from time to time concerning the license rights under which Licensee uses the Licensed Marks. Licensee shall place the following notice on all printed or electronic materials on which the Licensed Marks appear as ISENTRY may direct.

2.4. *Other Use Restrictions.* Licensee shall not use the Licensed Marks in any manner that would reflect adversely on the image of quality symbolized by the Licensed Marks.

### **3. Representations, warranties and covenants of Licensee.**

3.1. *ISENTRY's Ownership.* Licensee acknowledges ISENTRY's exclusive right, title and interest in and to the Licensed Marks and acknowledges that nothing herein shall be construed to accord to Licensee any rights in Territory in the Licensed Marks except as expressly provided herein. Licensee acknowledges that its use in the Territory of the Licensed Marks shall not create in Licensee any right, title or interest in the Territory in the Licensed Marks and that all use in the Territory of the Licensed Marks and the goodwill symbolized by and connected with such use of the Licensed Marks will inure solely to the benefit of ISENTRY.

3.2. *No Challenge by Licensee.* Licensee covenants that (i) Licensee will not at any time challenge ISENTRY's rights, title or interest in the Licensed Marks (other than to assert the specific rights granted to Licensee under these conditions), (ii) Licensee will not do or cause to be done or omit to do anything, the doing, causing or omitting of which would contest or in any way impair or tend to impair the rights of ISENTRY in the Licensed Marks, and (iii) Licensee will not represent to any third party that Licensee has any ownership or rights in the Territory with respect to the Licensed Marks, other than the specific rights conferred by these conditions.

### **4. Representations, warranties and covenants of ISENTRY.**

4.1. *Title to the Licensed Marks.* ISENTRY represents and warrants that:

(a) ISENTRY has good title to the Licensed Marks and has the right to grant the licenses provided for hereunder in accordance with the terms and conditions hereof, free of any liabilities, charges, liens, pledges, mortgages, restrictions, adverse claims, security interests, rights of others, and encumbrances of any kind (collectively, "**Encumbrances**"), other than Encumbrances which will not restrict or interfere in any material respect with the exercise by Licensee of the rights granted to Licensee hereunder.

(b) There is no claim, action, proceeding or other litigation pending or, to the knowledge of ISENTRY, threatened with respect to ISENTRY's ownership of the Licensed Marks or which, if adversely determined, would restrict or otherwise interfere in any material respect with the exercise by Licensee of the rights purported to be granted to Licensee hereunder.

Except as expressly provided above in this section 4, ISENTRY makes no representation or warranty of any kind or nature whether express or implied with respect to the Licensed Marks (including freedom from third party infringement of the Licensed Marks). The representations and warranties provided for in this section 4 shall survive the termination of the Primary Member User Agreement.

4.2. *Other Licensees.* In the event ISENTRY grants to any third party any licenses or rights with respect to the Licensed Marks, ISENTRY shall not, in connection with the grant of any such license or rights, take any actions, or suffer any omission that would adversely affect the existence or validity of the Licensed Marks or conflict with the rights granted to Licensee hereunder.

4.3. *Abandonment.* ISENTRY covenants and agrees that, during the term of the Primary Member User Agreement, it will not abandon the Licensed Marks.

**5. Notice and Prosecution of Infringement.** Licensee agrees to notify ISENTRY promptly, in writing, of any alleged, actual or threatened infringement of any of the Licensed Marks within the Territory of which Licensee becomes aware. ISENTRY has the sole right to determine whether or not to take any action on such infringements. ISENTRY has the sole right to employ counsel of its choosing and to direct any litigation and settlement of infringement actions. Any recoveries, damages and costs recovered through such proceedings shall belong exclusively to ISENTRY, and ISENTRY shall be solely responsible for all costs and expenses (including attorney fees) of prosecuting such actions. Licensee agrees to provide ISENTRY with all reasonably requested assistance in connection with such proceedings.

**6. Licensee defence and indemnification of ISENTRY.** Licensee agrees to indemnify ISENTRY against and hold it harmless from any loss suffered or incurred by ISENTRY or its affiliates by reason of a third party claim arising out of or relating to any use (whether or not a Permitted Use) of the Licensed Marks by Licensee pursuant to these conditions, including unfair or fraudulent advertising claims, warranty claims and product defect or liability claims, pertaining to the Licensed Products. Notwithstanding the foregoing, Licensee will not be required under this Section to indemnify any loss arising solely out of Licensee's use of the Licensed Marks in compliance with the terms of the Trademark and Service Mark usage guidelines specified by ISENTRY (if any); provided that ISENTRY shall have no obligation to indemnify for third-party claims alleged to arise from the specifics of uses of third party trademarks or service marks, or the specifics of claims made, in marketing materials prepared by or for Licensee, which marketing materials have not been approved by ISENTRY prior to the publication out of which such claims are alleged to have arisen.

## **7. Limitation on use of Licensed Marks.**

7.1. *Restrictions on Use.* Licensee is not permitted to make any use of the Licensed Marks other than in connection with a Permitted Use, and as specifically authorized in section 1.1(b) above with respect to related equipment, nor to make any use of the Licensed Marks directed outside of the Territory.

7.2. *Adherence to Trademark and Service Mark Usage Guidelines.* Licensee agrees to comply with and adhere to Trademark and Service Mark Usage Guidelines for the depiction or presentation of the Licensed Marks, as furnished by ISENTRY. Prior to Licensee depicting or presenting any of the Licensed Marks on any type of marketing, advertising or promotional materials, Licensee agrees to submit samples of such materials to ISENTRY for approval. ISENTRY shall have fourteen (14) days from the date ISENTRY receives such materials to approve or object to any such materials submitted to ISENTRY for review. In the event ISENTRY does not object to such materials within such fourteen (14) day period, such materials shall be deemed approved by ISENTRY. Thereafter, Licensee shall not be obligated to submit to ISENTRY materials prepared in accordance with the samples previously approved by ISENTRY and the Trademark and Service Mark Usage Guidelines; provided, however, Licensee shall, at the reasonable request of ISENTRY, continue to furnish samples of such marketing, advertising and promotional materials to ISENTRY from time to time during the term hereof at the request of ISENTRY.

7.3. *Use of Similar Trademarks and Service Marks.* Licensee agrees not to use (a) any trademark or service mark which is confusingly similar to, or a colourable imitation of, the Licensed Marks or any part thereof, or (b) any work, symbol, character, or set of words, symbols, or characters, which in any language would be identified as the equivalent of the Licensed Marks or that are otherwise confusingly similar to, or a colourable imitation of, the Licensed Marks, whether during the term of this agreement or at any time following termination of these conditions. Licensee shall not knowingly engage in any conduct which may place the Licensed Products, the Licensed Marks or ISENTRY in a negative light or context.

7.4. *Services of Public Figures.* Licensee agrees to obtain ISENTRY's prior written approval (which approval will not be unreasonably withheld) before engaging the services of any celebrity or publicly known individual for endorsement of any Licensed Products.

## **8. Control of Brand Image.**

8.1. *Exclusive Use of Licensed Marks.* The Licensed Products shall be marketed by Licensee solely under the Licensed Marks.

8.2. *Consistency With Brand Image and Principles.* Licensee shall use the Licensed Marks in a manner that is consistent with the brand image and principles established by ISENTRY, and mechanics to ensure consistency will be included in the Marketing Communications Guidelines from time to time published by ISENTRY.

8.3. *Management of Brand Image.* ISENTRY shall be responsible for the overall management of the brand image for the Licensed Marks. All advertising, marketing and promotional materials using the Licensed Marks prepared by Licensee shall, in addition to the provisions set forth in section 8.2 above, comply with the Marketing Communications Guidelines to be furnished by ISENTRY to Licensee as such Marketing Communications Guidelines may be amended and updated by ISENTRY from time to time. Such Marketing Communications Guidelines shall establish reasonable principles to be followed in the development of advertising, marketing and promotional campaigns in order to ensure a consistent and coherent brand image. All advertising, marketing and promotional campaigns conducted by Licensee shall be conducted in a manner consistent with the Marketing Communications Guidelines.

## **9. Assignment; sublicensing.**

9.1. *Licensee Right to Assign.* Licensee, without the prior written consent of ISENTRY (in its sole discretion), shall have no right to assign any of its rights or obligations hereunder.

9.2. *ISENTRY Right to Assign the Licensed Marks.* Nothing herein shall be construed to limit the right of the ISENTRY to transfer or assign its interests in the Licensed Marks, subject to the agreement of the assignee to be bound by the terms and conditions of this agreement.

9.3. *Licenses to Additional Licensees; Sublicenses; Licenses to Additional Licensees.* Licensee shall not sublicense (or attempt to sublicense) any of its rights hereunder without the prior written consent of ISENTRY, in the sole discretion of ISENTRY.

**10. Governing law.** These terms and conditions shall be governed by the Governing Law of the Primary Member User Documentation as set out in the Primary Member User Agreement.