



Effective 10/1/2014

VENDOR AGREEMENT

THIS LICENSE AGREEMENT (“Agreement”) is entered into and is effective this ____ day of _____, 20____, by and between the “National Coalition of 100 Black Women, Inc.” or “Licensor”), a not-for-profit corporation organized and existing under the laws of New York City having its offices and principal place of business at 1925 Adam C. Powell Jr. Boulevard, Suite 1L, New York, NY 10026, and _____ (“Licensee”), a corporation organized and existing under the laws of _____, having its principal place of business at _____.

WHEREAS, NCBW, a not-for-profit advocacy organization, is the owner of trademarks and service marks as reflected on Schedule A attached hereto and as protected by federal, state, and New York City common law (“Marks”), and is entitled to the exclusive use of the Marks; and

WHEREAS, Licensee desires, and NCBW is willing, to grant a license to Licensee to use the Marks on merchandise designed, manufactured and sold by Licensee, provided that Licensee shall confine its sales of such merchandise solely to NCBW members and solely at NCBW-approved conferences and other events, and shall not offer such merchandise for sale through the internet or other electronic means; NOW, THEREFORE, in consideration of the promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be bound legally, agree as follows: 1. Grant of License. NCBW hereby grants Licensee a non-exclusive, non-transferable license (“associated License”) to use in designing, manufacturing, and selling merchandise bearing NCBW’s Marks in conformance with this Agreement, which includes NCBW’s Operating Guidelines and Code of Conduct (attached as Schedule B hereto, and incorporated by reference herein), and in accordance with any requirements, specifications, or standards prescribed by NCBW hereunder pertaining to Licensee’s use of NCBW’s Marks, it being understood that such specifications or standards are designed only to protect the value of NCBW’s Marks.

2. Ownership of Marks. Licensee acknowledges the great value of the goodwill associated with NCBW’s Marks; that the Marks and all rights and goodwill pertaining thereto belong exclusively to NCBW; that all uses of the Marks by Licensee shall inure to the benefit of and be on behalf of NCBW; and that NCBW retains the right to license the use of the Marks to other parties. Licensee warrants that it will do nothing inconsistent with NCBW’s ownership of, or rights or interests in, the Marks, and acknowledges that nothing in this Agreement or the associated License confers on Licensee any right, title or interest in the Marks, other than the right to use them in accordance with the terms and provisions of this Agreement. Licensee further agrees that it will not, during the term of this Agreement or thereafter, attack or contest NCBW’s title to or rights or interests in any Mark; that it will not cause anything to be

done by commission or omission) that would in any way impair or tend to impair NCBW's rights to, or title or interest in, any Mark; and that it will not attack or contest the validity or enforceability of this Agreement or the associated License.

3. Licensee as Vendor: Sale to NCBW Members Only. Licensee is authorized to sell Mark-bearing merchandise as a vendor, subject to the restrictions and conditions, which Licensee expressly acknowledges and agrees to, including that (a) it will sell Mark-bearing merchandise only at NCBW conferences, retreats, and other NCBW-approved events; and (b) it will conduct all such transactions on a face-to-face, in-person basis (i.e., not by catalog or internet), however, vendor may accept orders from a member during a face-to-face meeting whose active membership has been verified; and that Licensee shall make no such sale to any prospective purchaser who fails to verify her NCBW membership by means approved in advance by NCBW (such as by displaying a valid, current membership card).

4. Quality Control and Maintenance.

a. Standards for Use and Control of Marks. Licensee agrees to comply with any requirements prescribed by NCBW concerning the quality, style, design, and use of each Mark, and to ensure that all merchandise bearing a Mark is designed, manufactured, advertised, marketed, and/or sold in conformance to specifications and standards that NCBW may prescribe. Licensee agrees to cooperate with NCBW in facilitating the implementation of NCBW's requirements, specifications and standards. Licensee agrees that all Marks shall at all times be under the control of NCBW. Licensee also agrees not to use any other letters or symbols on merchandise in combination with any Marks without NCBW's permission, or to use any other trademarks or service marks in combination with any Mark without the advance written approval both of NCBW, on the one hand, and the owner(s) of such other trademark(s) and/or service mark(s), on the other. [See NCBW Graphics Standards included in this package.](#)

b. Maintenance of Standards. NCBW shall have the right to require Licensee to submit samples of its designs for merchandise bearing a Mark and samples of such merchandise manufactured by Licensee, as well as display and packaging materials, for NCBW's inspection as NCBW deems necessary, and Licensee shall make its operations reasonably available for NCBW's inspection upon NCBW's request.

c. Safeguards against Prohibited Sales. Licensee represents and warrants that it will put in place and enforce safeguards designed to protect against unauthorized sales of Mark-bearing merchandise. Licensee warrants that it will not allow, participate in, or in any way cause or facilitate (by commission or omission, directly or indirectly) any activity that makes Mark-bearing goods available for purchase by non-members or the public or otherwise. Licensee further warrants that it will notify NCBW of any circumventions of NCBW's sales restrictions herein that come to Licensee's attention, including -- but not limited -- to any diversion of Mark-bearing goods to unlicensed vendors for unrestricted sale, attempted purchases in quantities indicating an intent to resell (which Licensee agrees to disallow), and any suspected misuse or falsification of NCBW membership materials.

5. Rights Reserved by NCBW. Licensee acknowledges NCBW's right to undertake actions it deems appropriate to protect its Marks, including the right:

a. To restrict or prohibit any Licensee activity deemed by NCBW to be an unauthorized use of a Mark hereunder, which would include failures by Licensee to conform to NCBW's requirements, specifications or standards prescribed hereunder in Licensee's design, manufacturing, advertising, packaging, marketing, promotion, display or sale of merchandise bearing a Mark;

b. To inspect Licensee's books and records documenting Licensee's business activities and transactions pursuant to this Agreement and associated License, including income and/or sales tax returns filed by Licensee for the period(s) (including any part thereof) during which Licensee has been granted a license to use NCBW Marks; and

c. To communicate with NCBW members without restriction regarding its Marks and any uses thereof, including the circulation of lists of manufacturers and/or vendors authorized by NCBW to use its Mark(s).

6. Representations and Warranties by Licensee. Licensee represents and warrants:

a. That it will guarantee all mark-bearing merchandise it distributes and sells, and that it will make an acceptable adjustment to any dissatisfied purchaser within sixty (60) days of the date of purchase;

b. That it will generate and keep, for a minimum period of three years following termination of this Agreement, complete and accurate records and books relating in any way to this Agreement or to Licensee's use of any Mark, including all records of sales of merchandise bearing a Mark under this Agreement, and make such records available for inspection upon NCBW's request;

c. That it will not at any time sell, transfer, assign or otherwise convey (or attempt to convey by any means) the associated License or any rights thereunder to any other individual, partnership, joint venture, corporation, company, organization or entity without the express written authorization of NCBW;

d. That it will not disclose, share, or provide copies of any Mark to anyone other than Licensee's employees or contractors who have a demonstrable need to know and who have a binding agreement with Licensee to protect the Marks against unauthorized use;

e. That it will display the associated License at all times when marketing, displaying or selling Mark-bearing merchandise, as a Vendor at NCBW approved events.

f. That it will comply with all provisions of NCBW's Code of Conduct and Guidelines (incorporated herein), and with all federal, state and local laws applicable to its business.

7. Infringement. Licensee agrees to notify NCBW promptly of any infringement, imitation of a Mark, or any other unauthorized use of a Mark, by any person or entity of which Licensee becomes aware. In all such instances, NCBW shall have the sole right to determine whether any action shall be taken in response thereto, which may include seeking relief through infringement or unfair competition proceedings or otherwise, and Licensee agrees that it will cooperate with NCBW in any enforcement action or effort that Delta may undertake to protect its rights.

8. Equitable Relief. Licensee acknowledges and agrees that any unauthorized use by it of any NCBW Mark will cause irreparable harm and significant injury to NCBW; that damages from such harm or injury would be difficult to determine on a prompt basis; and that NCBW shall be entitled to immediate equitable relief from such unauthorized use, by way of temporary and/or permanent injunction, in addition to other rights and remedies that NCBW may have.

9. Liability; Indemnification

a. Liability. NCBW assumes no liability to Licensee or any third party arising from the quality, performance or other characteristics of merchandise designed, manufactured, or sold by Licensee.

b. Indemnification. Throughout the period from the inception of this Agreement until three years following its termination, Licensee agrees to indemnify and hold harmless NCBW, its officers, Executive Board members, agents and employees from and against any and all losses, demands, claims, damages to persons or property, and liabilities, including reasonable attorneys' fees, arising out of or relating to claims by third parties for defects from, or damages or injuries sustained in connection with, Licensee's design, manufacture, sale or use of merchandise bearing a NCBW Mark.

10. Relationship of the Parties. This Agreement creates no agency relationship between the parties hereto and nothing herein is intended, nor shall be construed or implied, to place the parties in the relationship of partners, joint ventures, or franchisor/franchisee, and Licensee shall have no power to obligate or bind NCBW in any manner whatsoever. However, Licensee shall be considered a "related company" within the meaning of 15 U.S.C. § 1127 solely for purposes of establishing NCBW's trademark rights in the Marks in connection with Licensee's use thereof, and Licensee's uses of the Marks shall inure to the benefit of NCBW.

11. Term and Publication of Non-Renewal

a. Term of Agreement. The term of this Agreement and the associated License hereby granted shall be effective from the date of execution of this Agreement and shall be renewed on an annual basis, effective upon NCBW's receipt from Licensee of the appropriate renewal fee unless sooner terminated pursuant to the "Termination" provisions set forth in this Agreement, at which point all rights licensed hereby shall cease immediately.

b. Publication of Non-Renewal. Licensee understands and agrees that NCBW has the right to and may, in its sole discretion and without recourse by Licensee, publicize the non-renewal of the Agreement and associate License in the most convenient medium, including posting the fact of the non-renewal and the reason for the non-renewal on NCBW's website.

12. Fee. Licensee shall pay NCBW on an annual basis the following fees: (a) annually, a fee of \$1500.00 for a vendor; (b) an annual renewal fee of \$750.00 for a vendor.

13. Termination.

a. Right to Terminate.

1. NCBW may terminate this Agreement upon written notice to Licensee, in the event NCBW receives notice that Licensee plans to cease operating;

2. NCBW may terminate this Agreement immediately upon Licensee's breach of this Agreement (including the incorporated Guidelines and Code of Conduct) by unauthorized use of any Mark – any of such as violation of Section 7 of the Code of Conduct with respect to the design, marketing, advertising, promotion, display, or sale of such merchandise – or by otherwise failing to meet its obligations under this Agreement;

3. Licensee may terminate this Agreement at any time upon written notice to NCBW of Licensee's cessation of its use of all Marks.

b. Effect of Termination.

1. Cessation of License and Licensee's Rights. If this Agreement is terminated for any reason, the Licensee's right to use the associated License and all rights granted to Licensee thereunder shall immediately cease to exist; Licensee shall immediately stop manufacturing, making, producing, or selling merchandise using any Mark (including advertising, promoting, and displaying merchandise); and Licensee shall send to NCBW or destroy all such merchandise and materials, as NCBW directs, unless NCBW in its sole discretion grants Licensee, in writing, a "continuation period" not to exceed sixty (60) days following termination during which Licensee may sell its remaining inventory of such merchandise in accordance with terms and conditions prescribed by NCBW. If termination is pursuant to an order of a court or governmental agency, however, NCBW shall not authorize any such post-termination use of any Mark.

2. Fees; Royalties. LICENSEE shall not be entitled to a refund of fees (or any portion thereof) upon termination of this Agreement, irrespective of the timing of termination (i.e., whether termination occurs one month or eleven months after the fee has been paid and the associated License issued). Upon termination of this Agreement, notwithstanding anything to the contrary herein, all royalties on sales previously made shall become immediately due and payable. In the event NCBW authorizes a 60 day post-termination "continuation period" for Licensee's sale of remaining inventory, royalties accruing during such period shall be due and payable in two installments, which shall be at the end of each 30-day interval in which the sale occurred. NCBW's rights hereunder to verify, challenge, and obtain full

payment of all royalties will continue in effect, irrespective of termination of this Agreement, until NCBW informs LICENSEE of its satisfaction.

14. Notices. Any Notice hereunder shall be given to the individuals identified below as proper recipients of such Notices, at the respective address set forth for each such individual, unless a change of address (or change of recipient) has been provided to the other party as prescribed herein. To be effective under this Agreement, Notice must be given by certified or registered mail, return receipt requested; or by overnight delivery, with a signature confirming receipt; or by facsimile with transmission verifiable. Notice of a change of address (or authorized recipient) shall be deemed effective upon delivery. Authorized recipients (with addresses) of any Notice given pursuant to this Agreement are:

For NCBW:

Signature
Executive Director
National Coalition of 100 Black Women, Inc.
1925 Adam C. Powell Jr. Blvd., Suite 1L
New York, NY 10026
(212) 212-5631 (facsimile)

For Licensee:

[Print]: Name and Title
Name of Company: _____
Address: _____
Facsimile Number: _____

15. No Waiver: No term or provision of this Agreement can be waived or modified except by written agreement executed by both parties. No waiver shall be implied from conduct, whether or not prolonged or repeated; nor shall any waiver of one term or provision of this Agreement be considered a waiver of any other term or provision.

16. No Transfer or Assignment. The associated License is granted solely to Licensee, and no other person, entity or party other than Licensee, and NCBW shall be deemed to have acquired any rights by reason of anything contained in this Agreement. Neither this Agreement nor the associated License granted under it is transferable or assignable to any other party without NCBW's prior written consent. Licensee may not sublicense or otherwise convey in any manner any rights granted to Licensee hereunder, without NCBW's written consent.

17. Entire Agreement. This Agreement (including the incorporated Guidelines and Code of Conduct) constitutes the entire agreement between the parties relating to the subject matter hereof, and all prior proposals, promises, discussions, negotiations, agreements or writings are superseded hereby. The terms of this Agreement and the associated License shall be binding upon and shall inure to the benefit of the parties and their successors, heirs and assigns.

18. Choice of Law; Forum; Jurisdiction. This Agreement and the parties rights and obligations hereunder shall be construed and interpreted in accordance with the laws of New York City and applicable federal law. The parties agree to bring any action or proceeding relating to this Agreement, its interpretation, performance or breach, and/or the parties' respective rights and obligations relating to it in the federal or local courts in New York City and in no other forum. In any such action or

