

## CO-MARKETING AND DISTRIBUTION AGREEMENT

This Co-Marketing, Sourcing and Distribution Agreement (this “Agreement”), is made effective as of November 21, 2012 (“Effective Date”), by and between Tempnology, LLC d/b/a Coolcore (“CC”) and Mission Product Holdings, Inc. (“MP”).

### WITNESSETH :

**WHEREAS**, CC and MP have executed a Binding Term Sheet dated as of November 21, 2012 (the “Term Sheet”) in which the parties outlined key terms for an arrangement related to product sourcing, co-marketing and distribution of certain textile-based cooling products produced by or through CC.

**WHEREAS**, the Term Sheet anticipates that the parties will negotiate and agree upon a definitive agreement that will supersede the Term Sheet and the parties desire to do so; and

**NOW, THEREFORE**, in consideration of the mutual agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

#### **1) Territory:**

- A) During the term of this Agreement and upon the terms and conditions set forth herein (including without limitation the terms of Sections 5 and 6 hereof), with respect to the Cooling Accessories (as defined below) MP will have, and CC hereby grants MP, exclusive distribution rights within the United States and first rights of notice and of refusal as further defined below in this paragraph on exclusive distribution rights in certain other countries, excluding the specific countries identified in the License and Distribution agreement dated as of January 21, 2013 (the “ReYs Agreement”) between CC and Qingdao Rey.S Culture and Media Company (“ReYs”) — namely, the countries of China, Japan, Taiwan, Hong Kong, Korea, Singapore, Malaysia, Indonesia, Philippines, Thailand and Vietnam (the “ReYs Territories”). The United States as well as such other countries and territories that MP acquires exclusive distribution rights to pursuant to its first rights of refusal and notice hereunder are referred to collectively as the “Exclusive Territory”. For the avoidance of doubt, during the term of the ReYs Agreement, ReYs has the exclusive right to sell CC’s Cooling Accessories under the Coolcore trademark in the ReYs Territories. For the purposes of this Agreement, the term “Cooling Accessories” shall mean products of the specific types listed on Exhibit A hereto manufactured by or on behalf of CC and additional products that are hereafter developed by CC that are added to the term

Cooling Accessories pursuant to the terms of Section 13 hereof (such additional products being sometimes herein referred to as "Cooling Accessory Derivatives" if they are not substantially distinct from the items on Exhibit A and "New Products" if they are substantially distinct from the items on Exhibit A, it being understood that both Cooling Accessory Derivatives and New Products shall be deemed Cooling Accessories hereunder).

- B) For clarity, it is expressly understood that MP shall have the right to sell Cooling Accessories throughout the world, and shall have exclusive rights (consistent with the Product Exclusivity provisions of Sections 5 and 6 below) in the Exclusive Territory. CC shall inform MP prior to agreeing to sell any Cooling Accessories (directly or indirectly) in any territory outside the United States, excluding (for the term of the ReYs Agreement only) the ReYs Territories; provided that CC shall inform MP of any pending renewals and renegotiations of the ReYs Agreement and the associated terms of any renewal or renegotiation shall be treated in the same manner as any other "International Term Sheet" (as such term is defined below). It is, however, expressly understood and agreed that, at no time in the future, will ReYs be classified as a "Sports Distributor" (as such term is defined below) based on the ReYs Agreement for the purposes of the right of first refusal set forth below and therefore MP shall only be entitled to a right of first notice with respect thereto as provided for under Subsection 1(D) hereof.
- C) MP shall have the right of first refusal to match any term sheet or memorandum of understanding for the sale of Cooling Accessories in any country outside of the United States ("International Term Sheet") if such International Term Sheet relates to a Sports Distributor, in which case the applicable territory will become an Exclusive Territory hereunder in the Sports Distributor channel only; provided that MP has agreed in writing to match the applicable International Term Sheet within ninety (90) days of the date such International Term Sheet is presented to MP. For the purposes of this Agreement, the term "Sports Distributor" shall mean an entity that acts directly or indirectly as a distributor with more than 25% of its end distribution consisting of customers in the Sporting Channel (as such term is hereinafter defined). Upon matching the applicable International Term Sheet, the parties hereto shall amend this Agreement to reflect the terms of such International Term Sheet.
- D) If the International Term Sheet does not relate to a Sports Distributor, then, after CC has informed MP of the terms of such International Term Sheet, MP will have forty-five (45) days to match such terms, in which case CC shall consider MP's offer in good faith but will not be obligated to accept such offer. Should CC elect to accept MP's offer then the applicable territory will become an Exclusive Territory hereunder for all applicable channels and this Agreement shall be amended to reflect the terms of such International Term Sheet.

- E) Further, both parties agree to use their commercially reasonable good faith efforts during the 120 day period following the Effective Date to establish a relationship with ReYs as well as a relationship with MP's agent in China. Provided the parties exercise such efforts, the failure to establish such relationships shall not constitute a breach hereof.

**2) Term:**

The initial term of this Agreement will commence upon the Effective Date and expire on July 1, 2016 (the "Initial Term"). Following the Initial Term, the Agreement will automatically renew (subject to the parties' termination rights specified below) for additional one-year periods (each a "Renewal Term") from July 2 of the then-current calendar year until July 1 of the following calendar year. Each such yearly period (whether during the Initial Term or a Renewal Term) is referred to herein as a "Contract Year," except that the first Contract Year will run from the Execution Date until July 1, 2014. The Initial Term and any Renewal Terms are together referred to as the "Term".

**3) Termination:**

Either party may terminate this Agreement without cause by providing written notice during May or June of any Contract Year, in which case the Agreement will terminate as of the last day of the second full Contract Year following timely notice of termination. For example, a termination notice delivered on June 1, 2014 would result in an effective date of termination of July 1, 2016. Notwithstanding the foregoing, and except as otherwise provided herein, either one of the parties may terminate this Agreement following the commission by the other party of a breach of a material term hereof (excluding alleged breaches by MP in the nature of nonpayment, which are subject to termination pursuant to Section 3(i) below only), after written notification to the other party that it shall have 90 days to remedy such breach. If such breach is not remedied or cured within the 90-day period, the aggrieved party may terminate this Agreement after the expiration of such cure period by written notice to the defaulting party. A breach by a party hereunder shall be deemed cured if the party alleged to have committed such breach ceases within the above specified cure period the activity which is the basis of the alleged breach. If there is a dispute as to whether a breach exists or has been cured, this Agreement shall remain in effect until such dispute is resolved pursuant to the Dispute Resolution provision below. In addition to the foregoing, (i) CC may terminate this Agreement (but not any PO's under which undisputed amounts have been paid) if MP has failed to pay any amount in excess of \$25,000 in the aggregate due under any PO (or PO's) on a timely basis and such failure continues to exist after the passage of 30 days after CC has confirmed that MP has received written notice from CC to MP of the

existence of such failure (provided that if MP in good faith disputes whether payment thereof is due this Agreement shall remain in effect until such dispute is resolved pursuant to the Dispute Resolution provision below), and (ii) CC may terminate this Agreement immediately upon written notice (or if immediate termination is not permitted under applicable law, then upon the shortest notice and cure period permitted) upon the filing of a petition in bankruptcy or for reorganization under any bankruptcy, receivership, insolvency or other similar law by or against MP; or upon MP's becoming insolvent (as finally determined by a court of competent jurisdiction) or making an assignment for benefit of creditors or taking other similar action; and (iii) MP may terminate this Agreement immediately upon written notice (or if immediate termination is not permitted under applicable law, then upon the shortest notice and cure period permitted) upon the filing of a petition in bankruptcy or for reorganization under any bankruptcy, receivership, insolvency or other similar law by or against CC or upon CC's becoming insolvent (as finally determined by a court of competent jurisdiction) or making an assignment for benefit of creditors or taking other similar action.

**4) Effect of Termination:**

In the event of any termination of this Agreement MP shall have the right to purchase, distribute and sell, in accordance with the provisions of this Agreement, and notwithstanding the termination of this Agreement, those Cooling Accessories and other products which shall have been delivered to MP or ordered by MP on or before the date of such termination for such period of time as is reasonably required by MP to sell such Cooling Accessories and other products, provided that in all events MP shall not have the right to sell any such Cooling Accessories and other products after the two-year anniversary of the effective date of such termination, provided, however, that in the event of a termination pursuant to Section 3(i) above, CC shall have no further obligation to ship any Cooling Accessories or other products to MP under any PO provided however that if MP has fully paid for all undisputed amounts currently due under a PO (i.e., due in accordance with the timing set forth in Section 16 below) CC shall nevertheless perform its obligations under such PO. In addition, notwithstanding any termination of this Agreement MP shall have the right to purchase, distribute and sell Cooling Accessories and other products hereunder to the extent necessary to permit MP to continue to fulfill its obligations pursuant to orders from its customers that are in effect and outstanding as of the effective date of expiration or termination (for any reason) of this Agreement, provided that in all events MP shall not have the right to purchase, distribute or sell any such Cooling Accessories and other cooling products after the two-year anniversary of the effective date of such termination, provided further, however, that in the event of a termination pursuant to Section 3(i) above, CC shall have no further obligation to ship any Cooling Accessories or other products to MP under any PO provided however that if MP has fully paid for all undisputed amounts currently due under a PO CC shall nevertheless perform its obligations under such PO. The period of

time following the effective date of termination during which MP exercises its rights under this Section 4 shall be referred to as the "Wind-Down Period."

**5) Product Exclusivity:**

In the Exclusive Territory, CC agrees it will not license or sell the Cooling Accessories (including any Cooling Accessory Derivatives thereof) that are designated as exclusive on Exhibit A or otherwise mutually agreed in writing to be "Exclusive Cooling Accessories" (collectively, the "Exclusive Cooling Accessories") to anyone other than MP during the Term, with the understanding that, to the extent expressly provided in Exhibit B or otherwise expressly agreed in writing by the parties, CC has the right to sell the Cooling Accessories that are not "Exclusive Cooling Accessories" ("Non-Exclusive Cooling Accessories") to vertically integrated companies as well as customers that are not Sports Distributors or retailers in the Sporting Channel for private label or CC-labeled versions of the Cooling Accessories. MP shall have a right of first notice and refusal to distribute any Cooling Accessory Derivatives and New Products developed by CC as provided for under Section 13. Following written notification by CC of such Cooling Accessory Derivatives and New Products, MP will have forty-five (45) days to provide the terms under which it wishes to distribute such Cooling Accessory Derivatives and New Products. Any New Product that does not have the same function as an Exclusive Cooling Accessory shall be treated as a Non-Exclusive Cooling Accessory unless the parties mutually agree in writing to add it to the list of Exclusive Cooling Accessories. If MP declines to make a good faith offer to distribute such Cooling Accessory Derivatives or New Products within such 45-day period, CC shall thereafter be free (subject to all the limitations in Section 6, including without limitation, the restrictions on sale in the Sporting Channel) to sell such Cooling Accessory Derivative or New Products to any third party in any territory or country; provided that such Cooling Accessory is not of comparable size and shape or function to any Exclusive Cooling Accessory (For example, CC would not be permitted to sell any Cooling Accessory Derivative, New Product or any other cooling product that functions as a towel, regardless of the size or shape of such product). If MP declines to make such a good faith offer, it shall not thereafter manufacture or have manufactured for it such Cooling Accessory Derivative or New Product without first providing CC with 45 days notice of the terms under which it proposes to have such Cooling Accessory Derivative or New Product manufactured and the opportunity for CC to match the terms under which MP is proposing to have such Cooling Accessory Derivative or New Product manufactured and (i) if CC agrees to match such terms in such 45 day period such Cooling Accessory Derivative or New Product shall be treated as a Cooling Accessory Derivative for all purposes hereunder and (ii) if CC does not agree to match such terms in such 45 day period and such Cooling Accessory Derivative or New Product is a woven product (as opposed to a knitted product) MP shall not be subject to the sourcing obligations under Section 14 with respect

to such Cooling Accessory Derivative or New Product. If MP does make such a good faith offer within such 45-day period, CC shall consider MP's offer in good faith but will not be obligated to accept such offer; provided that if CC does not accept MP's good faith offer it shall notify MP of any third party offer subsequently received to distribute such Cooling Accessory Derivatives or New Products and shall provide MP with a 45-day period in which to match any third party offer for such Cooling Accessory Derivatives or New Products and MP's offer shall be deemed accepted by CC if it matches the third party offer. Should MP's offer be accepted pursuant to the foregoing, then the applicable Cooling Accessory Derivative or New Product will become a Cooling Accessory hereunder for all applicable channels and this Agreement shall be amended to reflect the terms of such offer.

**6) Distribution Exclusivity and Collaboration:**

a) In the U.S. and elsewhere in the Exclusive Territory, CC agrees it will not sell any Cooling Accessories, New Products or Cooling Accessory Derivatives, directly or indirectly, through an agent or otherwise, to any retailer or other entity in the "Sporting Channel" (as such term is hereinafter defined) throughout the Term except in compliance with the following provisions of this Section 6. In addition, both parties agree to use commercially reasonable efforts in good faith to finalize the structure, commission, plan and process associated with MP's representation of CC-branded apparel products to sporting goods and sport specialty retailers ("Sporting Channel"). So long as the parties have used such efforts, the failure to finalize same shall not constitute a breach hereof. For the avoidance of doubt, it is expressly understood that a retailer will be deemed within the Sporting Channel if fifty percent (50%) or more of such retailer's annual revenue is derived from sports and sporting goods supplies, including without limitation, any sports-related footwear (provided, however, that if the parties are unable to determine the actual revenues of an entity, reference shall be made the applicable percentage of its product catalogue offerings) and any retailer that qualifies as being within, or outside, the Sporting Channel as of the first day on which the initial sell-in period for an applicable product commences shall be grandfathered as such for the balance of the Term. CC agrees and acknowledges that no New Product, Cooling Accessory, Cooling Accessory Derivative or other cooling product will be directly or indirectly sold or distributed by CC or any agent or contractor of CC to any retailer or other entity in the Sporting Channel in the Exclusive Territory including sporting goods and sporting specialty retailer; provided, however that (so long as any apparel and Dr Cool products are not of comparable size and shape or function to the Exclusive Cooling Accessories) the foregoing restrictions shall apply with respect to apparel and Dr Cool products only during the Restricted Period. The "Restricted Period" shall mean, with respect to Dr Cool products, the 6-month period following the date on which CC notifies MP in writing that the first such CC Dr Cool

product is ready for shipping to retail distribution and, with respect to cooling products in the apparel category, the 12-month period following the date that CC notifies MP in writing that its first such cooling apparel product is ready for shipping to retail distribution. Following any such notice from CC, the parties shall work in good faith to agree upon reasonable, mutually acceptable sales success criteria, which must be established no later than sixty (60) days prior to the date on which such products are in stock and ready for shipment to retailers. Once the parties agree upon such mutually acceptable sales success criteria this Agreement shall be amended to reflect the terms of such agreement. If, following the exercise of such good faith efforts, the parties are unable to agree upon such mutually acceptable sales success criteria within such 60 day period, CC shall be free (following the mandatory 6 or 12 month Restrictive Period specified above, which shall apply regardless of whether the parties reach mutually acceptable sales criteria) to sell such products to Sporting Channel entities without restriction under this Section 6(a) provided that if MP disputes in good faith whether CC actually exercised such good faith efforts and initiates a Dispute Resolution process as set forth below, CC's right to do so shall be suspended until the resolution of such process. If the agreed upon criteria are met by MP during the initial 6 (in the case of Dr Cool Products) and 12 (in the case of other cooling products) months of the Restricted Period (or during any extension of the Restricted Period), the Restricted Period shall be extended for an additional 6 or 12 months (as applicable). For the avoidance of doubt, the parties agree and acknowledge that the Restricted Periods may or may not run concurrently (due to different launch dates) and the extension of the Restricted Period for cooling products and in the apparel category and Dr Cool products shall be considered independently, making it possible for the Restricted Period to be extended for one without extending the other.

b) The parties agree to use commercially reasonable efforts during the first 60-90 days of the Term to devise a mutually agreeable distribution and sales strategy for the Running Specialty Channel that specifically addresses CC apparel/socks and MP/CC baselayer and socks. Specific topics to be discussed include distribution, segmentation, and rollout/launches within the Running Specialty Channel and the Sporting Goods Channel. The Running Specialty Channel is defined as retail stores with at least 95% of sales to runners. Provided that the parties use such efforts, the failure to agree upon such a strategy shall not constitute a breach of the terms hereof.

c) In addition to and without limiting the other exclusivity requirements hereunder, it is expressly agreed that MP will have exclusivity with respect to all Cooling Accessories (including Cooling Accessory Derivatives and New Products) and other cooling products sold to or through: Lowe's Home Improvement, Home Depot, QVC, HSN, Shop NBC and Direct Response subject to the following provisions of this Section 6(c). For further

clarity, neither CC nor its affiliates will be permitted to sell cooling products (including Cooling Accessories and New Products) (during the period of the Term in which MP has any exclusivity rights under Sections 5 and 6 hereof) to any of the foregoing retailers or their affiliates other than through MP. Notwithstanding the foregoing, it is agreed that CC's exclusivity obligations under this Section 6(c) shall expire with respect to Dr Cool Products (so long as the Dr Cool Products are not of comparable size and shape or function to the Exclusive Cooling Accessories) 12 months following the date on which CC notifies MP in writing that the first such Dr Cool Product is ready for shipping to retail distribution and, with respect to CC's cooling products in the apparel category (so long as the cooling products are not of comparable size and shape or function to the Exclusive Cooling Accessories), the 12 months following the date that CC notifies MP in writing that its first such cooling apparel product is ready for shipping to retail distribution. Following any such notice from CC, the parties shall work in good faith to agree upon reasonable, mutually acceptable sales success criteria, which must be established no later than sixty (60) days prior to the date on which such products are in stock and ready for shipment to retailers. Once the parties agree upon such mutually acceptable sales success criteria this Agreement shall be amended to reflect the terms of such agreement. If, following the exercise of such good faith efforts, the parties are unable to agree upon such mutually acceptable sales success criteria within such 60 day period, CC shall be free (following the mandatory 12 month exclusive period specified above, which shall apply regardless of whether the parties reach mutually acceptable sales criteria) to sell those specific products (i.e., products with respect to which the parties have failed to agree upon acceptable sales success criteria) to those entities that are restricted under this Section 6(c) without restriction provided that if MP disputes in good faith whether CC actually exercised such good faith efforts and initiates a Dispute Resolution process as set forth below, CC's right to do so shall be suspended until the resolution of such process. If such criteria are met by MP, the exclusivity periods specified in this paragraph sentence shall be extended for additional 12-months periods, it being understood that such extensions shall be considered independently for CC's cooling products in the apparel category and the Dr Cool products.

**7) Cooperation and Further Assurances:**

CC agrees that (i) it shall take no actions to directly or indirectly frustrate its exclusivity obligations hereunder; (ii) CC shall fully cooperate with MP to ensure that no third parties take any actions that frustrate the purposes of the exclusivity provisions herein, and (iii) CC shall take such actions as are necessary to enforce CC's intellectual property rights and contractual rights against third parties. For the avoidance of doubt, CC represents and warrants that it has the right to enter into this Agreement and that it is not subject to any agreement with any other party that conflicts with CC's obligations hereunder or

which would otherwise frustrate the purposes of this Agreement. Without limiting the foregoing, CC represents and warrants that any agreement CC previously has executed with Grabber (or its affiliates) has been terminated and Grabber and its affiliates have no further rights to sell or distribute additional inventory or fulfill any product orders for any products supplied directly or indirectly by or through CC or its affiliates. CC further agrees to take all actions necessary to ensure that its affiliates and any other related entities or representatives are bound by and will adhere to the terms of this Agreement.

**8) Minimum Guarantees/Forecasts/Co-op:**

MP's product exclusivity rights as delineated in Sections 5 and 6 above (the "MP Exclusivity") will continue throughout the Term subject the following requirements (and the termination rights herein) but may be terminated (as provided below) if MP fails to comply with such requirements. For the avoidance of doubt, once terminated, MP's exclusivity rights under this Agreement shall not be restored without an express written agreement of the parties to that effect:

- a) MP's combined purchases (of any kind, regardless of product type, price, branding, or other characteristics) from CC must exceed 2,100,000 units by 12/31/2014, of which no fewer than 625,000 units must be purchased no later than 3/1/2014 ("Initial Minimums"). Subject to MP achieving the Initial Minimums, MP shall be entitled to the MP Exclusivity throughout the Initial Term. MP further agrees that of the initial 2,100,000 units to be purchased by MP, no fewer than 500,000 units will be woven style (as opposed to knit style).
- b) For any Renewal Term MP may (as provided below) lose the MP Exclusivity if during the prior Contract Year it purchases less than \$10 Million in CC products (the "Continuing Minimums").
- c) If MP does not meet the Initial Minimums or Continuing Minimums (collectively, the "Minimums"), CC will continue to produce Cooling Accessories for MP on a non-exclusive basis. (For the avoidance of doubt and without limiting the MP Exclusivity, it is expressly understood that MP shall always maintain, during the Term hereof and the Wind-Down Period, the non-exclusive worldwide right and license to distribute, sell and otherwise exploit the Cooling Accessories and Cooling Accessory Derivatives for which the MP Exclusivity does not apply (or does not apply in an applicable territory, subject only to any CC branding restrictions under the ReYs Agreement). Other than the loss of MP Exclusivity, there shall be no penalty (and MP shall not be deemed in breach of the Agreement) due to any failure to meet the Continuing

Minimums. In the event that CC believes that MP has not met the Initial Minimums or the Continuing Minimums, CC shall immediately provide written notice of such alleged failure to MP and MP shall have the right to dispute any alleged failure. Any actual failure to meet the Initial Minimums may be deemed a material breach of the Agreement by MP, unless MP agrees to purchase units equal to any such shortfall (i.e., the difference between the Initial Minimums and the actual units purchased) within 30 days of written notice of such breach. For further clarity, in no event will MP lose the MP Exclusivity, be deemed in breach or be deemed to have failed to have met the Minimums in the event that MP is unable to satisfy the Minimums due to an act or omission of CC or its agents, contractors or suppliers. Further, CC and MP mutually agree that MP's obligations with respect to the Minimums are contingent upon timely delivery of all products ordered by MP. If CC or its agents cannot deliver or cannot deliver on a timely basis, MP shall not lose the MP Exclusivity and (without limiting MP's other rights and remedies) the Minimums will be adjusted and/or renegotiated accordingly.

- d) Prior to May 1 in any Contract Year, MP will (following written request from CC) provide CC with a good faith estimate of MP's contemplated purchases of Cooling Accessories during the next two Contract Years and prior to the end of the then-current calendar year, shall submit a PO for not less than 30% of the forecasted purchases for the next Contract Year. MP further agrees to make good faith efforts to work with CC during the first 90 days of the Term to create a preliminary forecast for MP's total woven style purchases over the first two Contract Years.
- e) In the event that MP purchases more than \$12 Million in CC products during any Contract Year, CC will contribute 5% of the amount purchased by MP in such Contract Year towards a mutually agreed co-op marketing program. For clarity, such amounts shall be contributed and spent in a mutually agreed manner prior to the end of the following Contract Year.

**9) Supply, Production and Inspection:**

- a) CC and MP shall comply with each purchase order ("PO") submitted by MP, and in this connection CC shall make arrangements to secure a timely delivery no later than one-hundred twenty (120) days after receipt of MP's PO or such other period may be agreed by the parties. Unless otherwise agreed in writing with specific reference to the agreed upon clauses being changed, PO's shall be in the form of Exhibit C hereto.. CC shall take all necessary steps, in accordance with MP's requirements, to ensure an uninterrupted supply of Cooling Accessories and other products to MP, and shall use its commercially reasonable good faith efforts to provide the products to MP in a

timely manner, without delay, interruption or slow-downs. Except as otherwise expressly agreed by the parties, Cooling Accessories and other products shall be delivered to MP in finished form, fit for sale to consumers. CC shall notify MP in writing no less than ninety (90) days in advance of any anticipated delays in production and/or shipping that may impact any product's availability, delivery, quantity and/or quality. CC shall also notify MP no less than one-hundred twenty (120) days in advance of any proposed changes in Cooling Accessories or other products that would materially alter the nature, quality, durability, size, composition, style, performance, functionality or character of such products, it being understood that such changes shall not be made without MP's prior written approval. Moreover, upon notice of the proposed change, and without limiting MP rights under any applicable cancellation provisions, MP will have the right to cancel the subject PO without recourse to CC, notwithstanding any other provision to the contrary. In addition, CC shall provide MP at least sixty (60) days prior written notice of any proposed changes in CC's premises or any premises used in the production, supply and/or distribution of Cooling Accessories or other products after the Effective Date.

- b) MP and its agents shall have the authority to enter upon CC's premises or any premises used in the production, supply or distribution of Cooling Accessories or other products purchased hereunder for the purposes of inspection for determining compliance with the terms of this Agreement. This right to inspection may only be exercised twice per Contract Year and upon 30 days prior written notice and includes, but is not limited to, the right to inspect the workforce, employee records, equipment, production runs or the procedures used by CC in manufacturing or having manufactured products to assure compliance with CC's obligations under this Agreement or any pertinent laws, orders or decrees applicable to CC, MP, MP customers and any product. In the event that CC is not in complete control of the premises in question, CC agrees that it will obtain all necessary and proper consents that will allow MP and its agents to exercise the rights set forth in this paragraph. CC will produce such consents upon request by MP or its agents. Neither inspection by MP nor the lack of any such inspection shall alleviate CC's obligation to comply with all applicable laws and standards, orders or decrees or be viewed as MP acquiescence to any non-compliance by CC. Without limiting the foregoing, upon MP's request, CC will promptly provide all applicable Export Administration Regulation product classifications and supporting documentation for the Products, including, without limitation: Certificates of Origin (General Use, NAFTA, and/or other trade agreement(s)), Export Control Classification Numbers ("ECCN's"), U.S. Customs Classification number, export license information, and "Schedule B" (export) and Harmonized Tariff Schedule (import) codes.

**10) Pricing:**

- a) CC agrees to provide MP with Finished Goods pricing as found in Exhibit D, it being understood that Exhibit D shall be completed and updated as soon as possible (and in no event later than 30 days) following the Effective Date. In particular, CC will provide pricing with respect to the “TBD” items on Exhibit D – i.e., the baselayer shirt, socks, wristbands, body towels, medium towels and yoga mat—within 30 days (in the case of towels) and 90 days (in the case of baselayer shirts, socks, wristbands and yoga mats) of the date this Agreement has been executed by both parties. Further, CC agrees that in addition to the pricing already provided for Finished Goods with secondary packaging FOB NJ, pricing will be provided for all remaining columns on Exhibit D, i.e. Finished Goods with secondary packaging FOB China, and pricing without secondary packaging (both FOB NJ and FOB China), which pricing shall be less than the corresponding pricing on Exhibit D with secondary packaging and shall reflect a deduction of the actual costs incurred by CC in connection with the secondary packaging. For clarity, following the Effective Date, any changes to the SRP will not affect the pricing paid to CC hereunder, which shall continue to be based on the figures in Exhibit D (as completed and updated pursuant to the terms of this paragraph). “Finished Goods” means that the applicable Cooling Accessory contains all attributes that are necessary to enable such Cooling Accessory to be completely ready for sale to end consumer, including all the components, primary and secondary packaging, shippers, packers and final pack-out of the Cooling Accessory in each case as specified by MP, including without limitation, as indicated in the applicable PO term. The parties expressly agree to review the pricing set forth in Exhibit D at the end of the Initial Term and at the end of each Renewal Term and in good faith consider appropriate price increases based on increases in the costs of raw materials and based on changes in market dynamics.
- b) As between MP and CC, any and all taxes, fees, imports or stamps required to be paid or collected under the laws of any local, state, federal or foreign jurisdiction, whether in the United States or any foreign country, relating to the manufacture, distribution, sale or export of products, other than taxes based on MP income or the retail sale of products by MP to its customers, shall be the responsibility of, and promptly paid or remitted by, CC to the appropriate governmental authority. In the case of products (if any) that are imported by entities other than MP, CC shall be responsible for and shall pay any U.S. excise taxes relating to the manufacture, storage, use, and sale of the products by CC.
- c) At no time during the Term of this Agreement shall CC sell Cooling Accessories provided hereunder to any entity on terms more favorable than those offered and/or

otherwise made available to MP, including, without limitation, with respect to the applicable price and payment terms, program support, growth or sales initiatives, warranties, allowances, rebates, co-op advertising and incentives, provided that the foregoing restriction shall only apply to entities purchasing comparable amounts (or less) of the applicable Cooling Accessories. If, at any time during the Term of this Agreement, CC sells any Cooling Accessories to an entity other than MP on terms that are more favorable than those offered and/or otherwise made available to MP in violation of the terms of the foregoing sentence (a "Triggering Event"), CC shall immediately (a) notify MP and (b) enter into an amendment to the applicable PO(s) and, if applicable, this Agreement, to provide MP with terms that are at least as favorable as such other terms. Such amendment(s) shall apply to all purchase POs, effective as of the date of the Triggering Event.

**11) Branding and Testing Procedures:**

- a) MP agrees to use commercially reasonable efforts to include CC branding on primary, secondary and merchandising of Cooling Accessories within MP, irrespective of source for the Cooling Accessories, but dependent on lead times and mutual agreement by both parties. Exact placement, size and treatment of the CC branding will be mutually agreed upon, but shall be substantially similar to the CC branding depicted on Exhibit E, unless otherwise agreed in writing by the parties. Both parties agree to work together on determining the appropriate branding for cooling accessories manufactured at the MP factory, it being understood that the parties will use all reasonable efforts to reach agreement on such branding within the first 15 days of the Term. For the avoidance of doubt and notwithstanding any other provision herein to the contrary, once MP obtains CC's written approval on use of CC trademarks and other branding elements on any products or materials further approval shall not be required with respect to any products or usages that are similar to those approved previously. For clarity, it is expressly understood that notwithstanding any other provision herein to the contrary, MP shall have the right in its sole discretion to determine which, if any, of its Marks (as defined below) are used in connection with branding, selling, distributing or otherwise exploiting the Cooling Accessories and whether any third party Marks will be used in connection with the Cooling Accessories. The requirements under this paragraph shall expire upon the one-year anniversary of either party's issuance of any notice to terminate without cause.
- b) In the event that MP requires approval testing of Cooling Accessories or Cooling Accessory Derivatives in addition to those tests that CC would normally perform on its own behalf, CC shall pay for such additional testing to the extent that it involves wear testing or substantiation of cooling claims that CC has made for such products, it

being understood that CC must provide it least one substantiated wear claim and one substantiated cooling claim. All other testing requested by MP shall be paid for by MP.

**12) Marketing:**

Following the Effective Date, MP agrees to use commercially reasonable efforts to include CC branding on substantially all new cooling-specific merchandising signage and fixtures for 2013 and throughout the Term to be presented in a consistent manner with the branding found on the MP packaging. The requirements under this paragraph shall expire upon the one-year anniversary of either party's issuance of any notice to terminate without cause.

**13) New Product Development:**

CC agrees to use commercially reasonable efforts to launch no fewer than 3 new products per Contract Year as Cooling Accessory Derivatives that are substantially distinct from those set forth on Exhibit A ("New Products"), as well as introduce no fewer than 2 new colors per Contract Year for all existing Cooling Accessories from the prior year portfolio ("Cooling Accessory Derivatives"). For clarity, in the event that MP and CC launch more than 3 New Products that were proposed by CC in a Contract Year, then CC's obligations to present and launch New Products in the following Contract Year shall be reduced in a corresponding manner (i.e., if the parties launch 4 New Products in a Contract Year, CC's obligation will be to launch no fewer than 2 New Products in the next Contract Year). CC agrees to use commercially reasonable efforts to update existing Cooling Accessories every 3 years. For the avoidance of doubt, the baselayer shirt, socks and yoga mat will serve as the three New Products for the first Contract Year.

**14) Sourcing:**

CC and MP acknowledge and agree that MP will continue to obtain certain cooling products from its own sources during the Term. Notwithstanding the foregoing, MP agrees that it will purchase no less than the following percentages (based on units) of its non-chemical, textile-based woven products from CC sources for distribution within the Exclusive Territory, unless additional purchases from MP sources are necessary due to demand exceeding supply available from CC's factory: 35% in 2014 and 50% in 2015 and thereafter. MP further agrees not to source or buy any of the Cooling Accessories provided by CC hereunder (or Cooling Accessories that are substantially similar in shape or size) whether from MP's factory or from any other source, except for (i) its current

non-chemical, textile based woven products MP currently buys from such factory and (ii) any woven products that MP has in development as of the Effective Date as listed on Exhibit B hereto. Notwithstanding the foregoing, the sourcing restrictions in this Section shall not apply (a) during any Contract Year in which CC or MP has issued a notice of termination hereunder or any Contract Year thereafter, and (b) during all Contract Years following any Contract Year during which CC was unable to fulfill a material number of units of Cooling Accessories under any MP PO or (c) to any new woven products or customized versions of existing woven Cooling Accessories that are proposed by MP and as to which MP has provided CC with not less than 45 days notice of the terms under which MP's factory or any other factory is willing to manufacture such woven product and CC has declined to match such terms within such 45 day period. Further, both parties agree to use commercially reasonable good faith efforts to have MP or its sourcing agent request that CC raw material be purchased by MP factory for annual runs of appropriate Cooling Accessories and, most specifically, MP's non-chemical, textile-based woven products, in Contract Year 2 (i.e. calendar 2014 deliveries) and thereafter. For the avoidance of doubt, CC acknowledges that MP utilizes the services of a sourcing agent in China and CC agrees to use commercially reasonable efforts to cooperate with MP's sourcing agent to effectuate the purposes of this Agreement, including without limitation by providing MP's sourcing agent with access to facilities and records in China. CC understands and agrees that MP's arrangement with MP's sourcing agent is exclusive and CC will honor the exclusive nature of that relationship. Further, CC shall have the right (not more often than once per Contract Year) and upon not less than 30 days prior written notice to inspect the relevant books and records of MP to verify compliance with the terms of this Section 14 relating to sourcing by MP only. Notwithstanding the foregoing, if MP terminates this Agreement without cause, MP agrees that in the 12 months following MP's issuance of such a termination notice, MP will purchase no less than 66% of its knit Cooling Accessories distributed within the Exclusive Territory from CC sources, unless additional purchases from MP sources are necessary due to demand exceeding supply available from CC's factory; provided that this sourcing requirement will 1) only apply during the 12-month period following notice of termination by MP without cause and not thereafter and 2) will apply only to the extent that during the 12 months prior to receipt of the termination notice, CC was able to supply all Cooling Accessories ordered by Mission (which orders were accepted by CC) in a timely manner and in accordance with this Agreement and applicable POs. .

**15) Intellectual Property:**

- a) For purposes of this Agreement "Intellectual Property Right and Intellectual Property Rights" means (a) all copyright rights under the copyright laws of the United States and all other countries for the full term thereof (and including all rights accruing by

virtue of bilateral or international copyright treaties and conventions), whether registered or unregistered, including, but not limited to, all renewals, extensions, reversions or restorations of copyrights now or hereafter provided for by law and all rights to make applications for copyright registrations and recordings, regardless of the medium of fixation or means of expression; (b) all rights to and under all new and useful, patentable and unpatentable inventions, discoveries, designs, technology and art, including, but not limited to, all improvements thereof and all know-how related thereto, including all letters patent and patent applications in the United States and all other countries (and all letters patent that issue therefrom) and all reissues, reexaminations, extensions, renewals, divisions and continuations (including continuations-in-part and continuing prosecution applications) thereof, for the full term thereof; (c) all statutory and common law trademark and service mark rights and the goodwill associated therewith, and all applications and registrations to issue therefrom under all intellectual property laws of the United States, each U.S. state, and all other countries for the full term and any renewals thereof ("Marks"); (d) Internet domain names and applications therefor and URLs ("Domain Names"); (e) electronic or other databases to the extent protected by intellectual property or other law in any jurisdiction; (f) all trade secrets; (g) all Confidential Information; (h) know-how; and (i) all worldwide intellectual property rights, industrial property rights, proprietary rights and common law rights, whether registered or unregistered, not otherwise included in the foregoing, including, without limitation, all trade dress, algorithms, concepts, processes, methods and protocols.

- b) "CC Property" shall be defined as all products (including without limitation the Cooling Accessories), personal products, inventions, designs, discoveries, improvements, innovations, ideas, drawings, images, works of authorship, formulas, methods, techniques, concepts, configurations, compositions of matter, packaging, labeling, software applications, databases, computer programs as well as other creative content, methodologies and materials in existence prior to this Agreement (or created outside the scope of this Agreement) or developed or provided by CC hereunder and all Intellectual Property Rights with respect to any of the foregoing, excluding any materials provided by MP. It is understood and agreed that CC shall be under no obligation to share with or provide to MP any CC Property except as specifically called for under this Agreement. Excluding those elements of the CC Property consisting of Marks, Domain Names, CC hereby grants MP and its agents and contractors a non-exclusive, irrevocable, royalty-free, fully paid-up, perpetual, worldwide, fully-transferable license, with the right to sublicense (through multiple tiers), use, reproduce, modify, and create derivative work based on and otherwise freely exploit the CC Property in any manner for the benefit of MP, its licensees and

other third parties (collectively "MP Licensees"). Excluding those elements of the CC Property consisting of Marks or Domain Names or any claims relating thereto but without otherwise limiting the foregoing, (i) MP will have the right to use for any and all purposes the CC Property, including any ideas, methods, techniques, materials and information, including any Intellectual Property Rights therein, provided to or otherwise obtained by MP as a result of this Agreement, without restriction, liability or obligation and (ii) CC hereby releases MP Licensees from all claims based on CC's patent, copyright, trade dress or other Intellectual Property Rights that arose prior to this Agreement (including, notwithstanding any provision herein to the contrary, any claims relating to Marks that arose prior to this Agreement) or that arise during or after the term of this Agreement.

- c) "MP Property" shall be defined as all products, personal products, inventions, designs, discoveries, improvements, innovations, ideas, drawings, images, works of authorship, formulas, methods, techniques, concepts, configurations, compositions of matter, packaging, labeling, software applications, databases, computer programs as well as other creative content, methodologies and materials in existence prior to this Agreement (or created outside the scope of this Agreement) or developed or provided by MP hereunder and all Intellectual Property Rights with respect to any of the foregoing, excluding any materials provided by CC. It is understood and agreed that MP shall be under no obligation to share with or provide to CC any MP Property except as specifically called for under this Agreement. Excluding those elements of the MP Property consisting of Marks or Domain Names or any MP Property relating to any MP athletes or other talent or third party or any claims relating to any of the foregoing, (i) CC will have the right to use for any and all purposes relating to cooling products the MP Property, including any ideas, methods, techniques, materials and information and any Intellectual Property Rights therein, provided to or otherwise obtained by CC as a result of this Agreement, without restriction, liability or obligation and (ii) MP hereby releases CC Licensees from all claims based on MP's patent, copyright, trade dress or other Intellectual Property Rights that arose prior to this Agreement or, to the extent within the scope of the licenses granted herein, that arise during or after the term of this Agreement. Further, and notwithstanding anything to the contrary set forth in this Agreement, in the event of a termination of this Agreement pursuant to Section 3(i) or (ii) CC shall negotiate in good faith with MP (for a period of not less than 90 days following any such termination) with respect to the disposition (including sale to MP or destruction) of any products that MP had ordered and that CC had manufactured. If, following such 90 day period, the parties have been unable to mutually agree upon the disposition of such products, then for a period of 6 months thereafter, CC shall have the right, using the MP Property (as

previously affixed to or integrated in the products), to dispose of any products that MP had ordered and that CC had manufactured anywhere to anyone.

- d) During the Term of this Agreement and the Wind-Down Period, CC grants to MP a non-exclusive, non-transferable, limited license, which shall expire upon the termination of this Agreement except as necessary to allow either party to exercise its rights during the Wind-Down Period, to use its Coolcore trademark and logo (as well as any other Marks licensed hereunder) for the limited purpose of performing its obligations hereunder, exercising its rights and promoting the purposes of this Agreement as contemplated herein, in each instance so long as not done by MP in a (i) disparaging or inaccurate manner or (ii) manner which is inconsistent with the terms of this Agreement. MP shall comply with any written trademark guidelines that CC provides in writing in advance. In addition, each party shall have the right to review and approve all uses of its Marks by the other party, except for those pre-approved uses by MP as specified above. Neither party will create a unitary composite mark involving a Mark of the other party without the prior written approval of the other party. Each party will display trademark symbols and proprietary notices in connection with its use of the other party's Marks in connection with this Agreement as may be reasonably requested and provided by the other party. Each party acknowledges the other party's right, title, and interest in and to its Marks and agrees that all use of the other party's Marks in connection with this Agreement will inure to the benefit, and be on behalf, of the other party and neither party shall attempt to register or otherwise cancel, interfere, or contest the other party's rights in and to its intellectual property and trademarks. For avoidance of doubt, each party acknowledges that its use of the other party's Marks will not create in it, nor will it represent that it has, any right, title, or interest in or to such Marks other than the limited licenses expressly granted herein. Except as otherwise agreed, the rights granted to MP under this paragraph are granted on a worldwide, provided that MP shall not have the right to use CC's Marks in any jurisdiction within the ReYs Territory. Notwithstanding any other provision herein, the rights granted to MP under this Section shall continue throughout the Wind Down Period.
- e) It is not the parties' intention to create any jointly owned Intellectual Property Rights hereunder. Rather, the parties intend that all Intellectual Property Rights should be categorized as either MP Property or CC Property and licensed pursuant to the terms herein.
- f) Each party agrees to execute or cause its agents and/or employees to execute any documents necessary or desirable to secure or perfect the other party's legal rights and worldwide ownership in such other party's Intellectual Property Rights (e.g., the CC

Property in the case of CC and the MP Property in the case of MP), including, but not limited to documents relating to patent, trademark and copyright applications, transfers or assignments.

- g) During the Term, MP agrees that it shall not (nor will it direct any of its agents to) attempt to reverse engineer any trade secret information relating to the proprietary chemical compositions or proprietary product weaves of CC Cooling Accessories; provided that the foregoing restriction shall not apply during any Contract Year (or for any period of time thereafter): (i) in which either party has issued a notice of termination hereunder or (ii) in which total purchases by MP of Cooling Accessories hereunder has declined from the prior Contract Year. For the avoidance of doubt, CC recognizes that MP may require information regarding the chemical composition or proprietary product weaves of CC products, including without limitation, due to retailer or regulatory inquiries, and CC shall fully cooperate in providing such information upon MP's request.

**16) Payment Terms:**

Unless otherwise agreed in writing, during the first 6 months of the Term payment terms are as follows: 15% upon issuance of a PO by MP, 20% upon shipping from China port (or other mutually agreed port) and 65% net 30 from arrival at US port. For the remainder of the Term (including any Wind Down Period) payment terms are as follows: 10% upon issuance of a PO by MP, 15% upon shipping from China port (or other mutually agreed port) and 50% net 30 from arrival at US port and 25% net 60 from arrival at US port. All percentages are calculated based on the total amount of the corresponding PO.

**17) Expenses:**

Each party shall be responsible for their own expenses incurred in connection with this transaction.

**18) Restrictive Covenants:**

Each party acknowledges that the other party's employees, sourcing agents and sources of supply (collectively, "Restricted Parties") are a valuable assets of such party. Accordingly, each party agrees that during the period of time dating from the Effective Date through two (2) years after the effective date of termination of this Agreement, such party shall not,

directly or indirectly, recruit or solicit, or employ, engage as a consultant or supplier, or otherwise retain, any of the other party's Restricted Parties who are involved in the performance of this Agreement. Each party agrees that the other party's remedy at law for a breach of this Section shall be inadequate and therefore the non-breaching party shall be entitled to injunctive relief for such breach, without proof of irreparable injury and without posting bond, in addition to any other right or remedy it may have.

**19) Equity Participation:**

In addition to the other consideration provided to CC under this Agreement, CC will receive a warrant to purchase common shares of MP in the form attached hereto as Exhibit F (the "Warrant"). The exercise of such Warrant will not terminate or otherwise affect CC's obligations hereunder.

**20) Representations/Warranties and Indemnities:**

- a) Each party represents and warrants to the other party that: (i) it has sufficient expertise and experience to perform its obligations hereunder; (ii) it has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; and (iii) the execution of this Agreement and the performance of its obligations hereunder, do not and will not violate any agreement to which it is a party or by which it is bound.

- b) CC further represents and warrants to MP that: (i) all information CC provides to MP is and will be true and correct, including without limitation all testing and substantiation relating to its products and product claims; (ii) CC's entering into this Agreement and the performance of CC's obligations hereunder will not conflict with or be prohibited or restricted by any agreements or commitments with third parties (iii) title to Cooling Accessories and other products delivered to MP or its designees will be free of all liens, claims, debts, and rights of third parties; (iv) the Cooling Accessories and other products delivered to MP or its designees will be genuine and not adulterated, misbranded, or mislabeled; (v) the Cooling Accessories and other products delivered will not infringe upon any Intellectual Property Rights (as defined above), and CC is the owner of, or is licensed to authorize MP to use, all Intellectual Property Rights associated with the Cooling Accessories and other products delivered; (vi) the Cooling Accessories and other products delivered will not be subject to any import quota, restriction, rule or regulation preventing the importation or sale of the same or any component thereof; (vii) the Cooling Accessories and other products delivered will be new and not used, remanufactured, or reconditioned (unless otherwise stated in the PO), of consistent kind and quality, and free from all defects in material and workmanship (provided that MP shall notify CC within 30 days after receipt if it determines that any product is defective); (viii) the Cooling Accessories and other products delivered will be safe and appropriate for the purpose for which goods of that kind are normally used; (ix) the Cooling Accessories and other products delivered and all materials provided to MP in connection with the marketing, promotion, distribution, and sale of the same, including, without limitation, packaging, labeling, and advertising materials for such Cooling Accessories and other products delivered, have been produced in compliance with all applicable federal, state and local laws, regulations, rules, guidelines, ordinances and standards as well as all retailer requirements (collectively "Requirements") in all locations throughout the "Territory" (as defined below), and neither the Cooling Accessories or other products delivered to MP nor their purchase or sale by MP will violate or fail to meet any such Requirements; and (x) the Cooling Accessories and other products delivered may be re-sold by MP and its affiliates in any location in which MP has the right under this Agreement to market, sell, or distribute such goods (the "Territory"). EXCEPT AS SET FORTH HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO CC'S PRODUCTS AND CC EXPRESSLY EXCLUDES AND DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, APPLICATION OR USE. EXCLUDING ITS INDEMNITY OBLIGATIONS, GROSS NEGLIGENCE, INTENTIONAL MISCONDUCT AND MATTERS WITHIN THE SCOPE AND MONETARY LIMITATIONS OF ANY INSURANCE COVERAGE REQUIRED HEREUNDER, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES

ARE SOUGHT IN CONTRACT, IN TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE.

- c) Subject to the foregoing, CC shall defend, indemnify, and hold MP and MP's affiliates and MP's and MP's affiliates' distributors, retail partners and licensees harmless from and against all claims, expenses, liabilities, losses, and damage, including reasonable attorney's fees, resulting from, or arising in connection with, (i) any breach of this Agreement, including any failure of the Cooling Accessories and other products delivered to conform in any respect to the representations, warranties and covenants contained in any part of this Agreement, (ii) the failure of the Cooling Accessories and other products delivered to meet label claims or MP's quality control standards, (iii) the sale, purchase, or use of the Cooling Accessories and other products delivered by or through CC or (iii) intellectual property infringement and misappropriation claims based on the products, and (iv) CC's negligence.
- d) MP shall defend, indemnify, and hold CC and CC's affiliates and their respective employees, agents and licensees harmless from and against all third party claims, expenses, liabilities, losses, and damage, including reasonable attorney's fees, resulting from, or arising in connection with, (i) MP's negligence, (ii) the unauthorized promotion, sale, purchase, resale, or use of the products or any litigation or threatened litigation based thereon, and (iii) all intellectual property infringement and misappropriation claims based on the unauthorized use of the products or based on any content and materials provided by MP.
- e) Upon the assertion of any claim or the commencement of any suit or proceeding against an indemnitee by any third party that may give rise to liability of an indemnitor, the indemnitee will promptly notify the indemnitor of the existence of such claim and will give the indemnitor a reasonable opportunity to defend and/or settle the claim at its own expense and with counsel of its own selection. The indemnitee will make available to the indemnitor all books and records relating to the claim, and the parties agree to render to each other such assistance as may reasonably be requested in order to ensure a proper and adequate defense. An indemnitee will not make any settlement of any claims that might give rise to liability of an indemnitor without the prior written consent of the indemnitor.

- f) Without limiting MP's rights to terminate any affected PO and obtain a refund of all amounts paid thereunder for suspended delivery, CC shall be excused from delay or non-performance in the delivery of any PO if and to the extent such delay or failure is caused by the following occurrences to the extent beyond the control of CC : acts of God; war, acts of terrorism, riots and civil disturbances; or expropriation or confiscation of facilities CC shall promptly notify MP of the existence of any such force majeure condition as soon as practicable and the anticipated extent of the delay or non-delivery. CC shall, in such event, have the right to allocate available products among its customers in its sole discretion

**21) Insurance:**

CC shall acquire and maintain at its sole cost and expense throughout the Term of this Agreement and any renewal of this Agreement, and for a period of one (1) year following the termination or expiration of this Agreement, commercial general liability insurance, including product liability and completed operations, advertising injury/personal injury and contractual liability coverage, underwritten by an insurance company on an occurrence form with an AM Best's rating of at least A-/VIII and authorized to do business in the United States. Such insurance coverage shall be primary and non-contributory for the benefit of MP, contain a waiver of subrogation for additional insureds and provide coverage with limits of not less than \$1,000,000 per occurrence and an annual general aggregate of not less than \$2,000,000 and a products/completed operations aggregate of not less than \$2,000,000 (which can be satisfied through a combination of primary and umbrella policy limits) and shall contain an endorsement by which the insurer extends the coverage thereunder to the extent necessary to include the contractual liability of CC arising by reason of the indemnity provisions set forth in this Agreement. All insurance policies shall name CC as a named insured and shall include MP as an additional insured. Insurance coverage represented by these policies shall provide coverage with respect to all products manufactured, sold and/or distributed by the CC. All insurance policies shall include a provision which provides that notice be given to MP at least thirty (30) days prior to cancellation of the policies. Insurance policies shall not contain cross-claim, cross-suit, or other such exclusion clauses which would preclude additional insured parties from instituting causes of action against other insureds under the policy or which would otherwise limit coverage of additional insureds. Certificates issued by CC's insurance company or companies evidencing the insurance required by this Section shall be provided to MP prior to the date on which CC first delivers products to MP and annually thereafter.

**22) Confidentiality.**

During the Term of this Agreement and after the expiration or termination of this Agreement, each party shall keep confidential, and shall require such party's officers, directors, employees, and agents to keep confidential, all non-public proprietary

information of the other party, including (i) any information specifically identified by either party prior to disclosure as being confidential information, (ii) plans and data concerning products, prices, marketing, sales, customers, and (iii) technical or business matters. Disclosure of such confidential information shall be made by either party only to those of such party's employees, legal and financial advisors, representatives, investors and agents who have need to know such information in order to carry on the purposes of this Agreement and who have agreed in writing to abide by confidentiality requirements at least as restrictive as those set forth in this Agreement. A breach or threatened breach of this paragraph by the receiving party may cause irreparable harm and injury to the disclosing Party for which money damages are inadequate. In the event of such breach or threatened breach, the disclosing party shall be entitled to seek injunctive relief, in addition to all other available remedies, without the requirement of posting a bond or any other security.

**23) Purchase Orders:**

The parties agree and acknowledge that all products to be purchased hereunder by MP shall be purchased pursuant to the PO terms set forth on Exhibit C hereto and those PO terms shall govern the purchase of such products. For clarity, and notwithstanding any other provision to the contrary, to the extent of any conflict or variation between the terms of this Agreement and the terms of any PO, the terms of the PO as set forth in Exhibit C shall apply in addition to and not in lieu of this Agreement, it being understood that the terms of this Agreement shall prevail in the event of any conflict or variation with any PO terms not set forth in Exhibit C; provided, however, that notwithstanding the foregoing, the parties may agree to alter the express written terms of any PO (i.e., the terms set forth in Exhibit C) if either party shall have notified the other in writing of a specific change requested in writing expressly calling out such alteration, and the other party shall have accepted such alteration in writing specifically responding to such requested alteration, in which case such altered terms shall prevail over the terms of this Agreement.

**24) Amendment, Modification and Assignment:**

This Agreement may be amended, modified, or supplemented only by a written agreement signed by each of the parties. This Agreement may be transferred or assigned in whole or in part by operation of law or otherwise by either party without the prior written consent of the other (a) in the event of any change of control or sale of such party to an affiliate or third party that assumes control of such party or (b) in the event of a sale

by a party of substantially all the assets of such party (or substantially all the assets relating to any Cooling Accessories hereunder), to the party acquiring such assets.

**25) Governing Law; Jurisdiction:**

The interpretation and construction of this Agreement, and all matters relating hereto, shall be governed by the laws of the state of New York without regard to its conflicts rules. Subject to and without limiting the requirements of Section 26 below (Dispute Resolution), any claims hereunder shall be brought in a state or federal court venued in New York, New York.

**26) Dispute Resolution:**

(a) Any and all disputes arising under or related to this Agreement (including, but not limited to, disputes related to the applicability or enforceability of this Section) that cannot be resolved through negotiations between the parties shall be submitted to non-binding mediation according to this Section. Completion of such mediation shall be a condition precedent to bringing any action pursuant to this Agreement. If the parties fail to reach a settlement of their dispute within fifteen (15) Business Days after the earliest date upon which one of the parties notified the other(s) in writing of a desire to attempt to resolve the dispute, then the dispute shall be promptly submitted to mediation by a single mediator chosen by the mutual consent of MP and CC. If MP and CC cannot agree on a single mediator, the mediation shall be held before a panel of three mediators, one to be selected by MP, one to be selected by CC, and the third by agreement of the two mediators selected by the parties. The mediation shall take place in New York, New York. The English language shall be used throughout the mediation. The obligation of the parties to submit any dispute arising under or related to this Agreement to mediation as provided in this Article shall survive the expiration or earlier termination of this Agreement.

(b) If the parties fail to reach an agreement through the aforementioned mediation process, any dispute, controversy, or claim arising out of or relating to this Agreement shall be settled by arbitration before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The place of arbitration shall be New York, New York. The award may be made a judgment of any Court of competent jurisdiction. The arbitrator is not authorized to award either party any consequential, indirect, exemplary or punitive damages.

(c) Notwithstanding any of the foregoing, either party may seek and obtain an injunction or other appropriate relief from a court to preserve the status quo with

respect to any matter pending conclusion of the mediation, but no such application to a court of law or equity shall in any way be permitted to stay or otherwise impede the progress of the mediation.

**27) Severability:**

If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**28) Counterparts/Execution Date:**

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original. Furthermore, facsimile copies shall be deemed the same as originals. This Agreement shall be deemed fully executed and effective when all parties have executed at least one of the counterparts ("Execution Date"), even though no single counterpart bears all such signatures. With respect to matters not already mutually agreed, to the extent that the Agreement requires the parties to mutually agree (or attempt to mutually agree) on particular matters on or before a certain number of days from the commencement of the Term, the parties agree and acknowledge that such references will be understood to mean an equivalent number of days from the Execution Date rather than the commencement of the Term.

**29) Notices:**

All notices or other communications hereunder shall be in writing and shall be deemed to be given or made when received by overnight courier, U.S. mail, registered or certified, first class, postage prepaid, or confirmed facsimile or email (and in the case of facsimile or email, with a copy via one of the aforementioned forms of delivery promptly thereafter) to the following address or addresses or such other address or addresses as either Party may designate in writing to the other in accordance with this Section:

If to CC:

Tempnology, LLC  
Attention: Justin Cupps and Richard Ferdinand  
210 Commerce Way, Suite 100  
Portsmouth, NH 03801

Fax: 603-570-4920  
E-mail: JCupps@coolcore.com; mailto:JCupps@coolcore.com  
RFerdinand@coolcore.com; mailto:RFerdinand@coolcore.com

If to MP:  
Jesh Shaw  
Founder / President  
MISSION PRODUCT HOLDINGS, INC.  
390 5th Avenue, Suite 804  
New York, NY 10018

F: 419.793.9145  
Email: Jesh@missionathletecare.com

30) **Survival:**

Those provisions herein which by their nature survive termination shall so survive, including without limitation, Sections, 4, 15, 18, 20, 22, 23, 26, 29, and 30.

ACCEPTED AND AGREED as of  
The date first written above:

**Tempology, LLC (d/b/a Coolcore)**

By:

Name: Justin Cupps

Title: President

**Mission Product Holdings, Inc.**

By:

Name: Jesh Shaw

Title: President

Fax: 603-570-4920

E-mail: [JCupps@coolcore.com](mailto:JCupps@coolcore.com)<<mailto:JCupps@coolcore.com>

[RFerdinand@coolcore.com](mailto:RFerdinand@coolcore.com)<<mailto:RFerdinand@coolcore.com>

If to MP:

Josh Shaw

Founder / President

MISSION PRODUCT HOLDINGS, INC.

390 5th Avenue, Suite 804

New York, NY 10018

F: 419.793.9145

Email: [josh@missionatletecare.com](mailto:josh@missionatletecare.com)

**30) Survival:**

Those provisions herein which by their nature survive termination shall so survive, including without limitation, Sections, 4, 15, 18, 20, 22, 25, 26, 29, and 30.

ACCEPTED AND AGREED as of  
The date first written above:

**Tempnology, LLC (d/b/a Coolcore)**

By:

Name:

Title:

**Mission Product Holdings, Inc.**

By:

Name: Josh Shaw

Title: President

Exhibit A: Cooling Accessories

<b>ACCESSORY</b>	<b>EXCLUSIVE</b>	<b>NON-EXCLUSIVE</b>
<b>TOWELS</b>	<b>X</b>	
<b>WRAPS</b>	<b>X</b>	
<b>HOODIES</b>	<b>X</b>	
<b>BANDANAS</b>	<b>X</b>	
<b>MULTI-CHILL</b>	<b>X</b>	
<b>DOO RAG</b>	<b>X</b>	
<b>SOCKS</b>		<b>X</b>
<b>HEADBANDS</b>		<b>X</b>
<b>WRISTBANDS</b>		<b>X</b>
<b>SLEEVES</b>		<b>X</b>
<b>SKULLCAP</b>		<b>X</b>
<b>YOGA MAT</b>		<b>X</b>
<b>BASELAYER</b>		<b>X</b>

Exhibit B: Vertically Integrated Partner List

Lululemon  
Patagonia  
North Face  
Bauer Hockey  
New Era\*  
Disney Retail Stores and Theme Parks\*\*

\*Carved out on a non-exclusive basis for hat liners only.

\*\* Carved out for apparel only.

List of MP Factory Woven Projects in Process

Large towel ≈ 12"/33"

Wrap towel ≈ 6"/42"

Xl towel ≈ 15"/36"

Hoodie

Headband

bandana

Body Towel

Exhibit C - Purchase Order Form

MISSION PRODUCT HOLDINGS, INC. ("COMPANY") STANDARD PURCHASE ORDER TERMS

Each Company purchase order (an "Order") with the applicable vendor specified on the Order ("Vendor") is subject to all terms and conditions listed below and the other terms set forth in these Standard Purchase Terms (collectively, the "Agreement").

1. Time in connection with any discount offered will be computed from the last to occur of: (a) the scheduled date of receipt of merchandise; (b) the actual date of receipt of merchandise and (c) the date an acceptable invoice is received. Any offsetting claim of the Company against Vendor may be deducted by the Company from the amount of an invoice at the time of payment.
2. All Orders are void unless confirmed in writing on Company's printed form and approved by an executive of Company.
3. Orders must be accepted according to the terms stated herein and any additional or different terms in Vendor's invoice, purchase order or otherwise specified by Vendor will be void and of no legal effect unless accepted in a written instrument signed by an officer of Company. If no notification is given to Company within five days after receipt of an Order or if shipment is made of any part thereof, it is understood that the terms and conditions of this Agreement are satisfactory to and are accepted by Vendor. Without limiting the foregoing, it is understood that performance of an Order must be in accordance with its terms, dating and conditions, and there can be no changes or alterations thereto unless in writing and signed by a duly authorized person of Company. In addition to all other legal rights, Company reserves the right to cancel an Order and/or to return at Vendor's expense, all or any part of the merchandise in the event the merchandise (a) is defective, (b) is not fit for the purpose sold, or (c) varies from the sample from which or specifications for which the Order was placed or (d) fails to comply with Company's shipping or billing instruction or with any of the provisions of this Agreement.
4. Time of delivery at Company's warehouse or other Company designated location is of the essence of this Agreement, and Company reserves the right to cancel all or any part of an Order if merchandise is not delivered on the date or dates specified herein, but receipt of merchandise in such cases shall in no way bind Company or limit the Company's right to reject or direct disposal of all or any part thereof.
5. Vendor expressly warrants that the merchandise to be delivered under an Order will conform to the sample from which or specifications for which the Order was placed and will be of best material and workmanship, free from defects and merchantable.
6. All goods shall be received subject to Vendor's rights of acceptance and rejection. Company shall be under no duty to inspect goods before resale and resale, repackaging or culling up for purchase or resale shall not be considered an acceptance of the goods so as to bar Company's right to reject them. Complaints, notice of defects in merchandise or notice of any other breach will be considered made within a reasonable time if made a reasonable time after notification is given to Company of such defects or other breach by Company's customers, regardless of whether Company has already made payment for such merchandise. The return of such defective merchandise shall not relieve

Vendor from liability for failing to ship satisfactory merchandise under an Order. Failure of Company to state a particular defect upon rejection shall not preclude Company from relying on unstated defects to justify rejection or establish breach.

7. If Vendor shall breach any provision of this Agreement, Company shall have the right to cancel this Agreement and/or any Orders, in whole or in part, without liability to Vendor and without limiting Company's other rights or remedies.
8. Company reserves the right to return at Vendor's expense any merchandise and cancel any Order where a claim is made that the sale or use by Company infringes or violates any alleged patent, design, trade name, trademark, copyright or any other right of a third party and in the event of such infringement or violation or alleged infringement or violation, Vendor shall be deemed in breach of this Agreement. Vendor agrees to indemnify Company and hold it harmless against any and all liability, damages, loss or expense, including costs and counsel fees (collectively "Loss"), which may be incurred by Company as the result of any claim, demand, suit or proceeding of any kind ("Claim") alleging any violation or infringement of any third party rights, including without limitation, any design, patent, trade name, trademark, copyright or unfair competition Claim now existing or hereafter commenced with respect to any or all items covered by any Order.
9. Vendor agrees to indemnify Company and hold Company harmless from all Loss arising from or relating to the sale or use of any merchandise provided by or through Vendor hereunder or from any defects in the quality of such merchandise or the dangerous conditions thereof or from Vendor's failure to provide such merchandise as and when specified under any Order, and agrees to pay any judgment against and assume any liability and expense of Company in connection therewith, including, without limitation, in connection with Claims of any kind which any purchaser of such merchandise from Company or any other person may make against Company or any Loss otherwise incurred by Company whether or not in connection with a Claim. Vendor shall procure and maintain adequate products liability and professional liability insurance and shall furnish to Company certificates thereof in connection with any Order. Upon request, Vendor shall name Company as an additional insured under such insurance policies.
10. Vendor, by accepting an Order, represents and warrants and guarantees (a) that all applicable provisions of federal, state and local laws, ordinances, codes and regulations have been complied with and that the prices and other terms and conditions of sale and the terms on which all promotional and advertising matter are furnished by Vendor to Company comply with all such laws, ordinances, codes, (b) that the weights, measures, sizes, legends, words, particulars or description, if any stamped, printed or otherwise attached to the merchandise or containers conform and comply with the applicable provisions of the Fur Products Labeling Act, Wool Products Labeling Act, the Flammable Fabrics Act, the Textile Fibers Products Identification Act, the wage, hour and child labor provisions of the Fair Labor Standards Act, the Robinson-Patman Act, and the Federal Food, Drug and Cosmetics Act (collectively, the "Acts"), (c) that the merchandise sold and the terms and conditions of sale conform with applicable Federal Trade Commission trade practice rules, if any, (d) that the merchandise sold otherwise complies with any other applicable labeling and invoicing laws, if any, and all advertising matter furnished by Vendor to Company complies with applicable law. Vendor agrees to indemnify and hold harmless Company against all Loss arising from Claims alleging violation of law based upon any act or omission of Vendor or Vendor's breach of this Agreement. The Company reserves the right to return any portion of a shipment or the entire shipment to the

Vendor at the Vendor's expense whenever any of the terms or conditions of this Agreement are violated or not fully complied with.

11. All materials created under the Order, including without limitation all artwork, layouts, photographs, scripts, ideas, concepts, characters, specifications, graphics, programs, software, designs and other property or materials furnished hereunder (the "Materials"), are specially commissioned for Company. Subject solely to the limitations specifically set forth on the Order (if any), all Materials shall be deemed to be works for hire for Company under the U.S. Copyright Act, and will be and remain the absolute and exclusive property of Company, its successors and assigns, in perpetuity. Vendor further agrees to execute and cause others who in any way contribute to the creation of the Materials to execute all further documents that, in the judgment of Company, are required or useful to establish, protect or enforce the rights herein granted or confirmed. To the extent necessary to vest full ownership of the Materials with Company, Vendor hereby irrevocably sells, transfers, and assigns all rights, title and interest, including the copyright in and to the Materials to Company, and its successors and assigns, without limitation.
12. Vendor shall pay and assume any and all taxes, fees, imposts, or stamps required by law by virtue of the sale of merchandise to Company.
13. Inclusion herein of express warranties and representations by Vendor shall not be deemed a waiver of such other warranties as may be implied in law or fact or provided for by any State or Federal statute or regulation. Any warranties, express or implied, shall survive inspection, acceptance and payment by Company and Company's customers. No amendment, modification or waiver of any of the terms and condition of this Agreement shall be effective unless in writing and signed by an officer of Company. No waiver of any breach or of any terms or conditions of this Agreement shall be construed a waiver of any subsequent breach of that term or condition or other term or condition of same or different natures of this or any other Order or contract. The remedies herein provided for Company shall be deemed cumulative and the exercise of any one shall not preclude the exercise of or be deemed a waiver of any other remedy, nor shall the specification of any remedy hereunder exclude or be deemed a waiver of any rights or remedies at law, or in equity, which may be available to Company.
14. Unless authorized otherwise in writing in advance by Company, Vendor shall not disclose to any third party any information and/or material related to the functions Vendor performed or information Vendor received or had access to in connection with any Orders or this Agreement. Vendor shall not use said information other than as required to perform hereunder without Company's prior written approval.
15. Discontinuance of or substantial interference with Company's business in whole or in part, by reason of fire, flood, earthquake, tempest, labor dispute, war, act of God, embargo, civil commotion, or governmental regulation or cause beyond Company's control will give it the option of canceling all or any part of undelivered Orders or unfilled parts thereof without liability.
16. This Agreement, and any right or obligation hereunder, is not assignable without the written consent of Company. Company shall be under no obligation to recognize any assignment of (a) moneys payable hereunder (b) any rights in the merchandise ordered herein, or (c) any other rights arising hereunder. No subcontracting shall be made by Vendor to any other party without Company's prior written approval.

17. This Agreement shall be construed according to the laws of the State of New York and all actions and disputes arising from or relating to this Agreement shall be brought exclusively in the State or Federal Courts located in New York, New York and Vendor hereby consents to the exclusive jurisdiction of such Courts.
18. All shipments of Orders must be in strict compliance with Company's published shipping instructions. Any shipments not in compliance will be subject to handling fees and cost-reimbursements via charge backs to the Vendor's account.
19. Notwithstanding any prior inspections and irrespective of any stated FOB point, Vendor shall bear all risks of loss, damage or destruction of merchandise called for hereunder until final acceptance by Company. Vendor shall bear the same risks with respect to any merchandise rejected by Company; provided however, that in either case Company shall be responsible for any loss occasioned by the gross negligence of its employees acting within the scope of their employment.

Exhibit D: Finished Goods Pricing:

Description Product Name (Material Classification)	Packaging Type	DDP NJ (Ocean)		FOB China	
		W/Packaging	W/O Packaging	W/Packaging	W/O Packaging
Large Towel (woven)- 12.25"x33"	LG Tube	\$3.07	\$2.66	\$2.69	\$2.28
Wrap - (Woven)- 8"x44"	LG Tube	\$3.70	\$3.29	\$3.33	\$2.92
Bandana (Woven)		TBD	TBD	TBD	TBD
Body Towel (knit) - 18 piece MSTR	LG Box	\$8.65	\$8.37	\$8.06	\$7.78
Body Towel (knit) - 6 piece MSTR	LG Box	\$8.75	\$8.47	\$8.16	\$7.88
Large Towel (knit)	LG Tube	\$3.87	\$3.46	\$3.49	\$3.08
XL Towel (knit)	XL Tube	\$4.30	\$3.84	\$3.92	\$3.46
Medium Towel (knit)	LG Tube	\$3.35	\$2.94	\$2.97	\$2.56
Hoodie (knit)	XL Tube	\$4.70	\$4.24	\$4.27	\$3.81
Football Skull Cap	SM Box	\$3.10	\$2.94	\$2.90	\$2.74
All-Sport Skull Cap	SM Box	\$3.10	\$2.94	\$2.90	\$2.74
Wristbands	SM Box	TBD	TBD	TBD	TBD
Sleeve (knit)	SM Box	\$4.88	\$4.72	\$4.53	\$4.37
Sleeve (knit) - 2PK	SM Box	\$9.60	\$9.44	\$8.90	\$8.74
2" headband (knit)	SM Box	\$3.25	\$3.09	\$2.94	\$2.78
4" headband (Knit)	SM Box	\$3.58	\$3.42	\$3.26	\$3.10
Multi Chill (knit) - 24 piece MSTR	MD Box	\$3.75	\$3.47	\$3.39	\$3.11
Multi chill (knit) - 6 piece MSTR	MD Box	\$3.86	\$3.47	\$3.50	\$3.11
Wrap (Knit)- 8"x44"	LG Tube	\$3.80	\$3.39	\$3.42	\$3.01
Wrap (Knit)- 6"x42"	SM Box	\$3.00	\$2.84	\$2.68	\$2.52
Do-Rag (knit)		TBD	TBD	TBD	TBD
Team socks		TBD			
Basketball socks		TBD			
Running socks		TBD			
Baselayer shirt		TBD			
Yoga Mat		TBD			

MSTR = Master Shipping Carton

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EXHIBIT E: WARRANT TO PURCHASE SHARES OF MISSION COMMON STOCK

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT OR QUALIFICATION RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION OR QUALIFICATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS.

Date of Issuance: February \_\_, 2013

**MISSION PRODUCT HOLDINGS, INC.**

**WARRANT TO PURCHASE SHARES OF COMMON STOCK**

THIS CERTIFIES THAT, for value received, Tempnology, LLC d/b/a Coolcore (the "**Holder**") is entitled to purchase from Mission Product Holdings, Inc., a Delaware corporation (the "**Company**"), subject to the terms and conditions of this Warrant, at any time (but only once) prior to the Expiration Date (as defined below), Twenty Thousand (20,000) (the "**Base Amount**") shares of the Company's Common Stock, par value \$0.01 ("**Common Stock**") for each \$2,000,000 of purchases made by the Company under the Co-Marketing and Distribution Agreement, effective as of November 21, 2012, between the Holder and the Company (the "**Agreement**") during the 12-month period ending on the last day of the calendar month immediately preceding the date of exercise of this Warrant, at an exercise price per share of \$8.75 (the "**Exercise Price**"). Notwithstanding anything to the contrary to the foregoing, the maximum number of shares of Common Stock for which this Warrant may be exercised shall not exceed Four Hundred Thousand (400,000) shares (the "**Maximum Amount**") (i.e. 20 times the Base Amount). For example, if, on July 18, 2015, the Company has purchased from the Holder \$6.7 million of products under the Agreement during the period beginning on July 1, 2014 and ending on June 30, 2015, the Holder shall be entitled to purchase 60,000 Warrant Shares (the Base Amount multiplied by 3) under this Warrant as of that date. The shares of Common Stock purchasable upon exercise of this Warrant are hereinafter referred to as the "**Warrant Shares**". The Warrant Shares and the Exercise Price are subject to further adjustment as set forth in Section 2. For the purposes of this Warrant, the Company will be deemed to have purchased a product within a time period if the Holder has shipped the product to the Company during the applicable time period against an outstanding accepted order submitted by the Company (whether or not such order was submitted by the Company and accepted by the Holder within such time period).

1. Exercise of Warrant.

1.1 Term. This Warrant shall terminate and no longer be exercisable upon the earliest to occur of the following: (a) the date that is 30 days after the expiration of the Agreement, (b) the date that is 30 days after the termination of the Agreement pursuant to Section 3 of the Agreement, (c) the sale of substantially all of the assets or outstanding capital stock of the Company, including through a merger, (d) the date on which the Holder exercises, in

whole or in part, this Warrant to purchase Warrant Shares, and (e) February 1, 2023 (such date of termination of this Warrant, the "**Expiration Date**").

1.2 Method. This Warrant may be exercised by the Holder, in whole or in part in increments of not less than the Base Amount, by:

(a) the surrender of this Warrant (with the Notice of Exercise form attached hereto as Attachment A and the Investment Representation Statement attached hereto as Attachment B duly executed) at the principal office of the Company; and

(b) the payment to the Company, by check or wire, of an amount equal to the Exercise Price per share multiplied by the number of Warrant Shares then being purchased.

1.3 Net Exercise. If (a) the Common Stock is listed on a national securities exchange at the time of exercise of this Warrant or (b) this Warrant is being exercised upon the consummation of a merger of the Company in which the Common Stock is being converted into the right to receive solely cash, in lieu of Section 1.2 hereof, the Holder may elect to convert this Warrant or any portion thereof (the "**Conversion Right**"), by surrender of this Warrant at the principal office of the Company together with notice of the Holder's intention to exercise the Conversion Right, into that number of Warrant Shares computed using the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where:

X = The number of Warrant Shares to be issued to the Holder upon exercise of Conversion Right.

Y = The number of Warrant Shares for which this Warrant is being exercised.

A = The Fair Market Value (as defined below) of one Warrant Share at the time the Conversion Right is exercised as determined in good faith by the Board of Directors of the Company.

B = Exercise Price (as adjusted to the date of such calculation).

1.4 Delivery; Certificate. Upon receipt by the Company of this Warrant (with the Notice of Exercise form attached hereto as Attachment A and the Investment Representation Statement attached hereto as Attachment B duly executed) at its principal office, or by the stock transfer agent or warrant agent of the Company at its office, and, if applicable, the aggregate Exercise Price, the Holder shall be deemed to be the holder of record of the applicable Warrant Shares, notwithstanding that the stock transfer books of the Company shall then be closed or that certificates representing such Warrant Shares shall not then be actually delivered to the Holder. Upon the exercise of this Warrant in whole or in part, the Holder shall execute and deliver to the Company agreements, certificates and other documents (including without limitation, any stockholders agreement or other agreement relating to the Warrant Shares) that the Company reasonably requires. The Company shall, as soon as practicable after the exercise of this Warrant

in accordance with the terms hereof, prepare a certificate for the Warrant Shares purchased in the name of the Holder. If this Warrant should be exercised in part only, the Company shall, as soon as practicable after the surrender of this Warrant, execute and deliver a new Warrant evidencing the rights of the Holder thereof to purchase the balance of the Warrant Shares purchasable hereunder.

2. Adjustment of Exercise Price and Number of Warrant Shares. The number (including the Base Amount and the Maximum Amount) and kind of Warrant Shares purchasable upon the exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time upon the occurrence of the following events:

2.1 Subdivision or Combination. If the Company at any time prior to the Expiration Date shall subdivide or combine its Common Stock, the Exercise Price shall be proportionately decreased (and the number of Warrant Shares issuable upon exercise of this Warrant proportionately increased to the nearest whole) in the case of a subdivision or the Exercise Price shall be proportionately increased (and the number of Warrant Shares issuable upon exercise of this Warrant proportionately decreased to the nearest whole) in the case of a combination.

2.2 Reclassification, Reorganization and Consolidation. In case of any reclassification, capital reorganization or change in the type of securities of the Company issuable upon exercise of this Warrant (other than as a result of a subdivision, combination or stock dividend provided for in Section 2.1 above or Section 2.3 below), then, as a condition of such reclassification, reorganization or change, lawful provision shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and other securities or property receivable in connection with such reclassification, reorganization or change by a holder of the same number and type of securities as were purchasable as Warrant Shares by the Holder immediately prior to such reclassification, reorganization or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the Holder so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities or property deliverable upon exercise hereof, and appropriate adjustments shall be made to the Exercise Price per Warrant Share payable hereunder, provided the aggregate Exercise Price shall remain the same.

2.3 Stock Dividends. If the Company at any time prior to the Expiration Date shall pay a dividend with respect to Common Stock payable in Common Stock (except any distribution accounted for in the foregoing Section 2.1), then the Exercise Price shall be adjusted, from and after the record date for shareholders entitled to receive such dividend or distribution, to that price determined by multiplying the Exercise Price in effect immediately prior to such record date by a fraction (a) the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to such dividend or distribution, and (b) the denominator of which shall be the total number of shares of Common Stock outstanding immediately after such dividend or distribution.

3. Fractional Warrant Shares. No fractional Warrant Shares will be issued in connection with any exercise hereunder, but in lieu of such fractional shares the Company shall make a cash payment therefor upon the basis of the Exercise Price then in effect.
4. Stock Fully Paid; Reservation of Warrant Shares. All Warrant Shares issuable upon the exercise of the rights represented by this Warrant will, upon issuance, be fully paid and nonassessable. During the period within which the rights represented by this Warrant may be exercised, the Company will at all times have authorized and reserved for the purpose of issuance upon exercise of the purchase rights evidenced by this Warrant, a sufficient number of shares of Common Stock to provide for the exercise of the rights represented by this Warrant. In the event that there is an insufficient number of shares of Common Stock reserved for issuance pursuant to the exercise of this Warrant, the Company will take appropriate action to authorize an increase in the capital stock to allow for such issuance or similar issuance acceptable to the Holder.
5. Securities Laws; Transfer; Certain Representations.

5.1 The Holder hereby represents and warrants to the Company the following:

(a) Investment Experience. The Holder is an “accredited investor” within the meaning of Rule 501(a) of the Securities Act of 1933, as amended (the “Act”), is capable of evaluating the merits and risks of its investment in the Company and has the capacity to protect its own interests. The Holder is aware of the Company’s business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Warrant and the Warrant Shares.

(b) Purchase Entirely for Own Account. The Warrant and the Warrant Shares are being acquired for investment for the Holder’s own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof. The Holder has no present intention of selling, granting any participation in, or otherwise distributing the Warrant or the Warrant Shares. The Holder further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations, to such person or to any third person, with respect to the Warrant or the Warrant Shares.

(c) Restricted Securities. The Holder understands that the Warrant and the Warrant Shares are characterized as “restricted securities” under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations the Warrant and such Warrant Shares may be resold without registration under the Act only in certain limited circumstances. In this connection, the Holder represents that it is familiar with Rule 144, as presently in effect, and understands the resale limitations imposed thereby and by the Act. The Holder must bear the economic risk of this investment indefinitely unless the Warrant or the Warrant Shares are registered pursuant to the Act, or an exemption from registration is available. The Holder understands that the Company has no present intention of registering the Warrant or the Warrant Shares. The Holder also understands that there is no assurance that any exemption from registration under the Act will be available and that, even if available, such exemption may not

allow the Holder to transfer all or any portion of the Warrant or the Warrant Shares under the circumstances, in the amounts or at the times the Holder might propose.

5.2 Compliance with Securities Act. The Holder, by acceptance hereof, agrees that it will not offer, sell or otherwise dispose of this Warrant or any Warrant Shares except under circumstances which will not result in a violation of the Act. Upon exercise of this Warrant, the Holder hereof shall confirm in writing, in the form attached hereto as Attachment B, that the Warrant Shares so purchased are being acquired for investment and not with a view toward distribution or resale. In addition, the Holder shall provide such additional information regarding such Holder's financial and investment background as the Company may reasonably request. This Warrant and all Warrant Shares (unless registered under the Act) shall be stamped or imprinted with a legend in substantially the following form:

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT OR QUALIFICATION RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION OR QUALIFICATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS.

5.3 Transferability of Warrant. This Warrant may not be transferred or assigned in whole or in part without (a) the prior written consent of the Company and (b) compliance with applicable federal and state securities laws; *provided, however*, that the Holder of this Warrant may transfer this Warrant without the prior written consent of the Company to an entity that purchases all or substantially all of the assets of, or merges with, the Holder, subject to the terms and conditions of the Agreement.

5.4 Disposition of Warrant Shares. The Holder agrees not to make any disposition of all or any portion of the Warrant or the Warrant Shares unless and until (a) the Holder shall have notified the Company of the proposed disposition and shall have furnished the Company with a statement describing the circumstances surrounding the proposed disposition in reasonable detail, (b) the transferee has agreed in writing for the benefit of the Company to be bound by this Section 5 and (c):

(i) there is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

(ii) the Holder shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration of the Warrant or the Warrant Shares under the Act; provided that the Company will

not require opinions of counsel for transactions made pursuant to Rule 144 except in unusual circumstances.

5.5 Company Right of First Refusal. The Holder acknowledges the provisions set forth in the Company's bylaws (as made available by the Company to the Holder on the date of issuance hereof) with respect to restrictions on the transfer of the Common Stock. For so long as such restrictions are in effect, in the event of any conflict between the provisions of the Company's bylaws and this Section 5.5, the Holder's compliance with the applicable provisions of the Company's bylaws shall be deemed to satisfy the Holder's obligations under this Section 5.5.

(a) Notice of Proposed Transfer. If the Holder proposes to sell, assign, transfer, pledge, hypothecate or otherwise dispose of, by operation of law or otherwise (collectively, "*transfer*") any Warrant Shares acquired upon exercise of this Warrant, then the Holder shall first give written notice of the proposed transfer (the "*Transfer Notice*") to the Company. The Transfer Notice shall name the proposed transferee and state the number of such Warrant Shares the Holder proposes to transfer (the "*Offered Shares*"), the price per share and all other material terms and conditions of the transfer.

(b) Company Right to Purchase. For 30 days following its receipt of such Transfer Notice, the Company shall have the option to purchase all of the Offered Shares at the price and upon the terms set forth in the Transfer Notice. In the event the Company elects to purchase all of the Offered Shares, it shall give written notice of such election to the Holder within such 30-day period. Within 10 days after its receipt of such notice, the Holder shall tender to the Company at the address listed for notices in Section 7.6 the certificate or certificates representing the Offered Shares to be purchased by the Company, duly endorsed in blank by the Holder or with duly endorsed stock powers attached thereto, all in a form suitable for transfer of the Offered Shares to the Company. Promptly following receipt of such certificate or certificates, the Company shall deliver, by wire transfer to an account designated by the Holder in writing to the Company, full payment of the purchase price for such Offered Shares; provided that if the terms of payment set forth in the Transfer Notice were other than cash against delivery, the Company may pay for the Offered Shares on the same terms and conditions as were set forth in the Transfer Notice; and provided further that any delay in making such payment shall not invalidate the Company's exercise of its option to purchase the Offered Shares.

(c) Shares Not Purchased By Company. If the Company does not elect to acquire all of the Offered Shares, the Holder may, within the 90-day period following the expiration of the option granted to the Company under subsection (b) above, transfer the Offered Shares which the Company has not elected to acquire to the proposed transferee, provided that such transfer shall not be on terms and conditions more favorable to the transferee than those contained in the Transfer Notice. Notwithstanding any of the above, all Offered Shares transferred pursuant to this Section 5.5 shall remain subject to the right of first refusal set forth in this Section 5.5 and such transferee shall, as a condition to such transfer, deliver to the Company a written instrument confirming that such transferee shall be bound by all of the terms and conditions of this Section 5.5.

(d) Consequences of Non-Delivery. After the time at which the Offered Shares are required to be delivered to the Company for transfer to the Company pursuant to subsection (b) above, the Company shall not pay any dividend to the Holder on account of such Offered Shares or permit the Holder to exercise any of the privileges or rights of a stockholder with respect to such Offered Shares, but shall, insofar as permitted by law, treat the Company as the owner of such Offered Shares.

(e) Exempt Transactions. The following transactions shall be exempt from the provisions of this Section 5.5:

(i) any transfer pursuant to an effective registration statement filed by the Company under the Securities Act of 1933, as amended (the "Securities Act");

(ii) the sale of all or substantially all of the outstanding shares of capital stock of the Company (including pursuant to a merger or consolidation); and

(iii) any transfer from the Holder to an entity that purchases all or substantially all of the assets of, or merges with, the Holder.

(f) Assignment of Company Right. The Company may assign its rights to purchase Offered Shares in any particular transaction under this Section 5.5 to one or more persons or entities.

(g) Termination. The provisions of this Section 5.5 shall terminate upon the earlier of the following events:

(i) the closing of the sale of shares of Common Stock in an underwritten public offering pursuant to an effective registration statement filed by the Company under the Act; or

(ii) the sale of all or substantially all of the outstanding shares of capital stock, assets or business of the Company, by merger, consolidation, sale of assets or otherwise (other than a merger or consolidation in which all or substantially all of the individuals and entities who were beneficial owners of the Company's voting securities immediately prior to such transaction beneficially own, directly or indirectly, a majority (determined on an as-converted basis) of the outstanding securities entitled to vote generally in the election of directors of the resulting, surviving or acquiring corporation in such transaction).

(h) No Obligation to Recognize Invalid Transfer. The Company shall not be required (i) to transfer on its books any of the Warrant Shares which shall have been sold or transferred in violation of any of the provisions set forth in this Section 5.5, or (ii) to treat as owner of such Warrant Shares or to pay dividends to any transferee to whom any such Warrant Shares shall have been so sold or transferred.

(i) Legends. The certificate representing Warrant Shares shall bear a legend substantially in the following form (in addition to, or in combination with, any legend required by applicable federal and state securities laws and agreements relating to the transfer of the Company securities):

“The shares represented by this certificate are subject to a right of first refusal in favor of the Company, as provided in a certain warrant, dated as of February 27, 2012, with the Company.”

5.6 Market Standoff. Each Holder agrees, in connection with the Company’s initial public offering (the “*IPO*”) of its equity securities, and upon request of the Company or the underwriters managing such offering, (a) not to sell, make any short sale of, loan, grant any option for the purchase of or otherwise dispose of any of the Warrants or the Warrant Shares (other than those included in the registration, if any) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed one hundred eighty (180) days (or such longer period of time as may be required to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), as applicable, (or any successor rules or amendments thereto))) from the effective date of such registration as may be requested by the Company or such underwriters and (b) to execute any agreement regarding (a) above as may be requested by the Company or underwriters at the time of the public offering; provided, that the officers and directors of the Company who own stock of the Company also agree to such restrictions. The Company may impose stop transfer instructions to enforce this Section 5.6.

5.7 Representations and Warranties of the Company. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The initial Exercise Price referenced on the first page of this Warrant is not greater than the per share exercise price under any warrant or stock option issued by the Company (other than warrants issued by the Company with a per share exercise price less than \$0.50 per share) within the 6-month period preceding the date of issuance of this Warrant.

(b) All Shares which may be issued upon the exercise of this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of Common Stock as will be sufficient to permit the exercise in full of this Warrant.

(c) As of the effective date of the Agreement, the Base Amount represented not less than approximately 0.5% of the capital stock of the Company on fully diluted basis (without accounting for any outstanding stock options and warrants as of such effective date, but accounting for all outstanding stock options and warrants as of such effective date with an exercise price of less than \$0.50 per share).

6. Rights of Stockholders. No Holder of this Warrant shall be entitled to vote or receive dividends or be deemed the holder of capital stock or any other equity securities of the Company, nor shall anything contained herein be construed to confer upon the Holder of this Warrant, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to

give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value or change of stock to no par value, consolidation, merger, conveyance, or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or otherwise until this Warrant has been exercised and the Warrant Shares shall have become deliverable, as provided herein.

7. Miscellaneous.

7.1 Governing Law. This terms and conditions of this Warrant shall be governed in all respects by the internal laws of the State of Delaware without regard to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

7.2 Successors and Assigns. This Warrant shall be binding upon any successors or assigns of the Company and inure to the benefit of the Holder and any successors or assigns.

7.3 Waivers and Amendments. This Warrant and any provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the Company and the Holder.

7.4 Loss of Warrant. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company, or, in the case of any such mutilation, upon surrender and cancellation of such Warrant, the Company will execute and deliver a new Warrant of like terms.

7.5 Headings. The headings in this Warrant are for purposes of convenience and reference only, and shall not be deemed to constitute a part hereof.

7.6 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) seventy-two (72) hours after having been sent by registered or certified mail, return receipt requested, postage prepaid, or after being deposited in the U.S. mail, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt, in the case of the Holder, addressed to the Holder at the address set forth on the signature page hereto and, in the case of the Company, to Mission Product Holdings, Inc., 390 5th Avenue, Suite 804, New York, NY 10018, Attention: President, with a copy to David & Gilbert LLP, 1740 Broadway, New York, NY 10019, Attention: Richard Eisert; or as subsequently modified by written notice to the other party.

7.7 Notices of Certain Events. In the event of any consolidation or merger involving the Company, or sale or conveyance of all or substantially all of its assets, then and in each such event the Company will mail or cause to be mailed to the Holder a notice containing a

brief description of the proposed action and stating the date on which any such consolidation, merger, sale or conveyance is to take place, and the time, if any is to be fixed, as of which the holders of record in respect of such event are to be determined. Such notice shall be mailed at least four (4) business days prior to the date specified in such notice on which any such action is to be taken and the Holder shall have the opportunity to exercise this Warrant during such four (4) business day period.

The Company shall also promptly notify the Holder of any adjustment in the Exercise Price or the number of Warrant Shares pursuant to Section 2 hereof and at least ten (10) business days in advance of effecting an IPO.

7.8 Counterparts. This Warrant may be executed in two or more counterparts (including, but not limited to, by facsimile, PDF or other electronic copy), each of which shall be deemed an original and all of which together shall constitute one instrument.

(Signature page follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by a duly authorized officer.

**MISSION PRODUCT HOLDINGS, INC**

By: \_\_\_\_\_  
Name: Josh Shaw  
Title: President

**ACKNOWLEDGED:**

**TEMPNOLOGY, LLC D/B/A COOL CORE**

By: \_\_\_\_\_  
Name:  
Title:

Address: Tempnology, LLC  
Attention: Justin Cupps and Richard Ferdinand  
210 Commerce Way, Suite 100  
Portsmouth, NH 03801  
Fax: 603-570-4920  
E-mail: [JCupps@coolcore.com](mailto:JCupps@coolcore.com)  
[RFerdinand@coolcore.com](mailto:RFerdinand@coolcore.com)

**ATTACHMENT A**

**NOTICE OF EXERCISE**

TO: **Mission Product Holdings, Inc.**

The undersigned hereby elects to purchase \_\_\_\_\_ shares of Common Stock of Mission Product Holdings,, Inc. pursuant to the terms of the attached Warrant, and tenders herewith payment of the purchase price of such shares in full.

The undersigned hereby elects to convert the attached Warrant into Warrant Shares in the manner specified in Section 1.3 of the Warrant. This conversion is exercised with respect to \_\_\_\_\_ of the shares covered by the Warrant.

**[Check the box next to the paragraph above that applies.]**

2. Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

3. The undersigned represents that the aforesaid shares of stock are being acquired for the account of the undersigned for investment and not with a view to, or for resale in connection with, the distribution thereof and that the undersigned has no present intention of distributing or reselling such shares. In support thereof, the undersigned has executed an Investment Representation Statement attached hereto as Attachment B.

\_\_\_\_\_  
HOLDER

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT B**

**INVESTMENT REPRESENTATION STATEMENT**

In connection with the exercise or conversion of a Warrant to purchase shares of Common Stock (the "***Warrant Shares***") of Mission Product Holdings, Inc. (the "***Company***"), the undersigned (the "***Holder***") hereby represents and warrants to the Company the following:

(a) Investment Experience; Access to Information. The Holder is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act of 1933, as amended (the "***Act***"), and has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company so that it is capable of evaluating the merits and risks of its investment in the Company and has the capacity to protect its own interests. The Holder is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Warrant and the Warrant Shares.

(b) Purchase Entirely for Own Account. The Warrant Shares are being acquired for investment for the Holder's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof. The Holder has no present intention of selling, granting any participation in, or otherwise distributing the Warrant Shares. The Holder further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations, to such person or to any third person, with respect to the Warrant Shares.

(c) Restricted Securities. The Holder understands that the Warrant Shares are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such Warrant Shares may be resold without registration under the Securities Act of 1933, as amended (the "***Act***") only in certain limited circumstances. In this connection, the Holder represents that it is familiar with Rule 144, as presently in effect, and understands the resale limitations imposed thereby and by the Act. The Holder must bear the economic risk of this investment indefinitely unless the Warrant Shares are registered pursuant to the Act, or an exemption from registration is available. The Holder understands that the Company has no present intention of registering the Warrant Shares. The Holder also understands that there is no assurance that any exemption from registration under the Act will be available and that, even if available, such exemption may not allow the Holder to transfer all or any portion of the Warrant Shares under the circumstances, in the amounts or at the times the Holder might propose.

\_\_\_\_\_  
HOLDER

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_