

License Agreement

THIS AGREEMENT is made as of _____, by and between ATech Designs, Inc. ("ADI"), a New Hampshire corporation, and _____ ("Inventor").

WHEREAS, ADI and Inventor mutually desire and agree to enter into this License Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and agreements contained herein, ADI and Inventor agree as follows. Capitalized terms used in this Agreement are defined in Paragraph 16 below.

1. LICENSE.

(a) Grant and Acceptance of License. Subject to the terms and conditions of this Agreement, Inventor hereby grants to ADI, and ADI hereby accepts, an exclusive, worldwide, perpetual, irrevocable license (i) to use and sublicense the New Product Idea or (ii) to develop, make, use, sell, market, lease or otherwise distribute Licensed Products independently based upon or incorporating the New Product Idea.

(b) Exclusivity. The License is exclusive. Inventor (i) will not, and will not authorize any third party to, use the New Product Idea, in whole or in part, in any manner whatsoever or (ii) will not grant any third party any interest in or rights with respect to the New Product Idea.

(c) Improvements and Technical Information. Inventor will promptly communicate any Improvements in or to the New Product Idea to ADI and will promptly provide to ADI all technical information and documentation now or hereafter in Inventor's possession or under Inventor's control relating to the use or application of the New Product Idea or any improvements to the New Product Idea.

2. PAYMENTS.

In consideration of the License and all rights and privileges granted by Inventor to ADI under this License Agreement, ADI hereby agrees to make payments to Inventor as follows:

(a) Advances. Within fifteen (15) days after execution of this Agreement, ADI will make a nonrefundable payment to Inventor in the amount of \$_____ as an advance against Royalties.

(b) Royalties. ADI will decide to independently manufacture the New Product Idea itself or sublicense the New Product Idea to a third party. Payments will be made one of the following ways.

(i) ADI will pay Inventor Royalties in an amount equal to five percent (5%) of Sales Revenues if ADI decides to independently manufacture, inventory, and distribute the New Product Idea itself. "Sales Revenues" means, with respect to any calendar year, the aggregate gross revenue unconditionally received by ADI during such year from sales of Licensed Products less (i) amounts repaid or credited by reason of defects, returns, rejections, rebates, retroactive price allowances or adjustments; (ii) sales, excise, value-added and other similar taxes and customs duties paid, absorbed or allowed; (iii) commissions paid or allowed to independent brokers and/or agents; (iv) packing and transportation charges (including insurance); and (v) trade and quantity discounts actually allowed and taken.

(ii) ADI will pay Inventor Royalties in an amount equal to fifty percent (50%) of Royalty Revenues if ADI sublicenses or executes distribution agreements for the New Product Idea to a third party. "Royalty Revenues" means, with respect to any calendar year, any and all royalties and other "Sublicensing Income" unconditionally received by ADI during such year with respect to the New Product Idea from third parties.

Within 60 (sixty) days after the end of each calendar quarter, ADI will pay Inventor any and all Royalties owed with respect to such calendar quarter. Each such Royalties payment will be accompanied by a reasonably detailed written description of the calculation of the payment amount. All Royalties will be paid in U.S. Dollars. Any Royalty Revenues or Sales Revenues amount expressed or invoiced in another currency will be converted, prior to computing the Royalties due with respect to such amount, from such other currency into U.S. Dollars at the conversion rate actually received by ADI or, in the absence of any actual conversion, at a conversion rate which is the mean between Citibank, N.A.'s buying and selling rate for the other currency at its principal offices in New York, New York, on the last business day of the calendar quarter for which the Royalties are being determined.

3. ACCOUNTS.

ADI will maintain complete and accurate books of account with respect to its Sales Revenues or Royalty Revenues. Upon at least ten (10) business days prior written notice, no more than once each calendar year, Inventor (or Inventor's duly authorized representative) will be entitled to inspect such books of account, during normal business hours, at Inventor's own cost, solely for the purpose of verifying the correctness of ADI's payments under Paragraph 2 above. All information obtained in connection with any such inspection will be deemed Confidential Information belonging to ADI.

4. INVENTOR'S REPRESENTATIONS--ENTRY AGREEMENT AND/OR REPRESENTATION AGREEMENT UPDATE.

Inventor confirms that all information concerning the New Product Idea is true and correct as of the current date including, but not limited to, the following: (a) Inventor is the first and only inventor and creator of the New Product Idea; (b) Inventor owns all rights to the New Product Idea; (c) Inventor has not transferred or licensed such rights (or any interest therein) to any third party; and (d) to the best of Inventor's knowledge, the New Product Idea does not violate the intellectual property or other rights of any third party. If Inventor and ADI have entered into an Entry Agreement and/or a Representation Agreement then the representations as set forth in those agreements (and restated in this paragraph) are hereby reaffirmed by Inventor.

5. PROPRIETARY RIGHTS.

(a) Title. Title to the New Product Idea (including all Improvements) will be and shall remain vested in Inventor provided that any and all Improvements made jointly by Inventor and ADI ("Joint Improvements") will be owned jointly (and unless otherwise agreed in writing, equally) by Inventor and ADI. Any other improvements or enhancements to the New Product Idea and/or Licensed Products made by or on behalf of ADI, as between Inventor and ADI, will be owned solely by ADI and Inventor will not acquire any rights therein. Neither Inventor nor ADI will sell, transfer or grant any rights with respect to any Joint Improvements without the express prior written consent of the other, provided that Inventor's consent will not be required with respect to any grant of rights to a Joint Improvement by ADI to a third party in connection with ADI's exercise of its rights under the License.

(b) Protection. ADI will be solely responsible for making such filings and taking such other actions, if any, as ADI, in its sole discretion, may deem necessary or appropriate to protect Inventor's and ADI's intellectual property rights in the New Product Idea or a Joint Improvement. ADI will consult with Inventor with regard to the filing of any and all patent or copyright applications relating to the New Product Idea and will provide Inventor with periodic reports concerning the status of any such patents and/or copyrights. ADI will bear all costs and expenses incurred in connection with actions taken hereunder to protect the New Product Idea or a Joint Improvement. At ADI's request, Inventor will execute such documents and take such other actions, if any, as ADI may reasonably request in connection with protection of the New Product Idea or a Joint Improvement.

(c) Warranty and Indemnity. Inventor warrants that he/she has conceived the New Product Idea in the form presented to ADI and further warrants that he/she has such right, title and interest in and to the New Product Idea as to enable it to vest in ADI, without any qualifications whatsoever, the sole and exclusive right, privilege and license herein conveyed. To the best of the Inventor's knowledge, Inventor further warrants that the New Product Idea does not violate or infringe any rights of others. Inventor shall indemnify and hold harmless ADI and any third party sublicensee from and against any claim of Intellectual Property (copyright, trademark and patent) infringement by the New Product Idea as a result of the use contemplated herein of the New Product Idea, in the form submitted by Inventor to ADI. ADI agrees to indemnify and hold Inventor harmless against any claims, causes of action, damages or liabilities arising out of the manufacture, marketing, sale, distribution, sub-licensing, or use of the New Product Idea. Manufacturer shall assume full responsibility for testing, verifying and assuring the functionality and safety of the New Product Idea.

(d) Infringement. Inventor will notify ADI promptly upon becoming aware of any actual or alleged infringement of any intellectual property rights in the New Product Idea and of any available evidence thereof. ADI will have the right (but not the obligation) to prosecute any such infringement at its own expense and, for such purposes, may use Inventor's name as plaintiff, either solely or jointly with that of ADI. Inventor will not prosecute any such infringement except with the express prior written consent of ADI. Inventor will cooperate fully and promptly with any such action by ADI. Any recovery, damages, or settlement awarded to plaintiff in such action will be applied first in satisfaction of any unreimbursed costs and expenses incurred by ADI in connection with such action; and any balance then remaining will be distributed fifty percent (50%) to Inventor and fifty percent (50%) to ADI.

6. DEVELOPMENT AND COMMERCIALIZATION.

ADI may seek to develop and commercialize the New Product Idea directly and/or by sublicensing its rights hereunder. Inventor understands and agrees that while ADI will use commercially reasonable efforts to so develop and commercialize the New Product Idea in accordance with this License Agreement, such efforts may be unsuccessful. ADI will keep Inventor generally informed on an on-going basis, but in any event at least annually, of its development and commercialization efforts with respect to the New Product Idea.

7. CONFIDENTIALITY.

Each party agrees that during the term of this License Agreement and thereafter (a) it will use Confidential Information belonging to the other party solely for the purpose(s) for which it was disclosed hereunder and (b) it will not disclose Confidential Information belonging to the other party to any third party (other than its employees and/or professional advisors on a need-to-know basis who are bound by obligations of nondisclosure and limited use at least as stringent as those contained herein). The parties further agree that except as necessary to perform their respective obligations hereunder or otherwise expressly required by law, they will not publicly announce or otherwise disclose any of the terms and conditions of this Agreement. In the event either party is requested or ordered by a court of competent jurisdiction to disclose Confidential Information belonging to the other party, such party will give the other party immediate notice of such request or order and, at the other party's request and expense, resist such a request or order to the fullest extent permitted by law. Each party will promptly (i) return to the other upon request any or all Confidential Information of the other then in its possession or under its control and (ii) erase or otherwise destroy all computer entries containing any Confidential Information of the other then in its possession or under its control and provide the other with written certification of such erasure or destruction. The provisions of this Paragraph 7 will survive any termination of this License Agreement.

8. RELATIONSHIP OF PARTIES.

This Agreement and the relations established hereby between Inventor and ADI do not constitute a partnership, joint venture, agency or similar endeavor between Inventor and ADI. Each party will act under this License Agreement as an independent party and as an independent contractor. ADI or ADI's employees may have other

licenses or financial interests with one or more Third Parties sublicensed and any such relationship shall not be grounds for contesting a sublicense entered into on behalf of Inventor.

9. AMENDMENTS AND WAIVERS.

None of the provisions of this License Agreement may be amended or waived except by a writing signed by Inventor and ADI. Any waiver by either party of any breach of this License Agreement by the other party is not to be deemed a continuing waiver of other breaches of the same nature or other provisions of this License Agreement.

10. ASSIGNMENT.

This License Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns. ADI may grant one or more sublicenses under the License upon such terms and conditions as it may deem appropriate. Neither party may otherwise assign its rights or obligations hereunder without the express prior written consent of the other, provided that Inventor's consent will not be required with respect to any assignment by ADI to a ADI Affiliate or any successor to all (or substantially all) of ADI's business.

11. NOTICES.

All notices given pursuant to this License Agreement must be delivered in writing by personal service or sent by nationally recognized overnight courier service or written telecommunication (subject to confirmation of receipt in complete legible form) or U.S. registered mail, postage pre-paid, to the address specified on the signature page of this License Agreement (or to such other address as the addressee may direct by notice given in accordance with this paragraph).

12. REMEDIES.

It is understood and agreed that all provisions of this License Agreement are fundamental and essential for the protection of ADI's legitimate business interests, and in the event of any breach or threatened breach of the provisions of this License Agreement by Inventor, ADI will suffer irreparable harm and its remedies at law will be inadequate. Accordingly, in the event of a breach or attempted breach of this License Agreement by Inventor, ADI will be entitled, in addition to all other rights or remedies which may be available to ADI, to seek injunctive

and other equitable relief, without any showing of irreparable harm or damage. In the event ADI seeks such relief, it shall not be required to post a bond or provide other security. All remedies available for breach of this License Agreement are cumulative and may be exercised concurrently or separately. The exercise of one remedy will not be deemed an election of such remedy to the exclusion of other remedies.

13. FURTHER ASSURANCES.

The parties agree to execute such other documents and provide such further assurances, if any, as may be reasonably required from time to time to give effect to the provisions of this License Agreement.

14. LIMITATION OF LIABILITY.

IN NO EVENT SHALL ADI BE LIABLE TO INVENTOR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT, REVENUE, DATA OR USE, OR FOR SIMILAR COSTS, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON WARRANTY OR OTHER CLAIM, EVEN IF THE INVENTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES UNLESS ADI HAS ENGAGED IN WILLFUL MISCONDUCT OR GROSS NEGLIGENCE.

15. MISCELLANEOUS.

This License Agreement, together with the Entry Agreement and/or the Representation Agreement (if previously entered into by ADI and Inventor), is the sole understanding and agreement of Inventor and ADI with respect to its subject matter and supersedes all other such prior or contemporaneous oral or written agreements and understandings, except the Entry Agreement and/or the Representation Agreement (if previously entered into by ADI and Inventor), which will remain in full force and effect. This License Agreement will be governed by and interpreted under the internal laws of the State of New Hampshire and the United States of America and Inventor agrees to the jurisdiction of these courts and to Hampton, NH, as the venue for any cause of action in state court and to the appropriate Federal District Court for the City of Hampton State of New Hampshire. This License Agreement may be executed in separate counterparts, all of which together will constitute a single agreement. In proving this License Agreement, it will not be necessary to produce or account for more than one such counterpart.

16. DEFINITIONS.

For purposes of this License Agreement, the following words and expressions have the following meanings:

"Affiliate" means, with respect to either party, any person or entity controlling, controlled by, or under common control with such party.

"Confidential Information" means, with respect to either party, all information in any written or other form whatsoever, relating directly or indirectly to the present or potential business, operations, corporate or financial condition of such party or to data, know-how, materials, supplier or customer lists or other similar information belonging to such party which is not at the relevant time (i) generally known to the public (through no act or omission in violation of this License Agreement), (ii) furnished to the receiving party by a third party having the lawful right to do so or (iii) acquired by the receiving party from a source other than the disclosing party, provided that the receiving party immediately notifies the disclosing party of any such acquisition.

"Improvements" means any and all developments or improvements upon the New Product Idea which Inventor may now or hereafter, alone or with others, acquire, discover, invent, originate, conceive or have rights to, in whole or in part, whether or not such development or improvement is patentable, commercially useful or reduced to writing or practice.

"Joint Improvements" -- See Paragraph 5 above. "License" means the license granted to ADI in Paragraph 1 above.

"Licensed Product" means any product embodying the New Product Idea, in whole or in part (whether or not protectable under patent or copyright laws).

"New Product Idea" means (1) the product concept described on Exhibit A hereto, including any and all technology, technical information, patents, inventions, know-how, trademarks, trade secrets, formulae, models, methods, designs, know-how, and materials relating thereto and (2) any and all Improvements.

"Person" means an individual, a corporation, a partnership, a trust, an unincorporated organization, an entity or a government or any agency or political subdivision thereof.

"Royalties" means amounts payable by ADI pursuant to Paragraph 2(b) above.

"Royalty Revenues" -- See Paragraph 2(b) above.

"Sales Revenues" -- See Paragraph 2(b) above.

"Sublicense Income" means the difference between cash receipts and cash expenditures for items independently manufactured by ADI, but inventoried and distributed by a third-party company as part of a product distribution agreement.

"Third Party" means any entity that is less than 100% owned, controlled, or possessed by ADI and owns, controls, or possesses less than 100% of ADI.

"U.S. Dollars" means the currency of the United States of America.

IN WITNESS WHEREOF, the parties hereto have signed,
sealed and delivered this Agreement as of
the _____ day of _____, 2_____.

ATech Designs, Inc.

By: _____

ADI employee

Title: _____

Address: 3 Playhouse Cir.
Hampton, NH 03842

By: _____
[Inventor Name]

Address: _____

