

NON-EXCLUSIVE LICENSE FOR USE OF SCHOOL WORDMARKS AND LOGOS

THIS LICENSE AGREEMENT (hereinafter "Agreement") is entered into by and between **Judson Independent School District**, an independent school district organized under the laws of the State of Texas, having a principal place of business in Live Oak, Texas (hereinafter referred to as ("Judson")) and _____ (hereinafter referred to as "Licensee");

WHEREAS, Judson is the owner of the following state and federal registered Wordmarks and Logos and/or owns common law trademark rights on the following logos:

- JUDSON ROCKETS® – USPO Reg. No. 3,628,363/Date: May 26, 2009
- JUDSON ROCKETS Logo® - USPO Reg. No. 3,636,941/Date: June 9, 2009 *
- WAGNER THUNDERBIRDS™ - TX Reg. No.80083328/Date: July 6, 2007
- WAGNER THUNDERBIRDS Logo™ - TX Reg. No. 80083301/Date: June 18, 2008
- JUDSON EARLY COLLEGE ACADEMY™ - TX Reg. No. 802638650/Date: March 31, 2017
- VETERANS MEMORIAL HIGH SCHOOL™ -TX Reg. No.802638688/Date: January 26, 2017

all of which it has used in commerce and continues to use in connection with conducting athletic contests in a variety of sports and in printed materials and commercial merchandize associated with such events (hereinafter collectively "the Marks and Logos").

WHEREAS, Judson licenses the use of the Marks and Logos to third-parties for use on printed materials associated with support and marketing of Judson ISD sporting events and teams, including display of the logo on, but not limited to, clothing and athletic apparel sold by Licensees, the District, school foundations associated with the District, or Licensees' direct distributors.

WHEREAS, Licensee wishes to obtain a license to use the Marks and Logos indicated above, for the limited purpose of creating and commercially marketing on, but not limited to, promotional printed materials, clothing and other sports apparel bearing the Marks and Logos ("Licensed Products") in San Antonio and the following surrounding counties: Bexar; Comal; and Guadalupe (collectively referred to as "Surrounding Counties"), and Judson is willing to grant the License, subject to the terms and conditions herein.

NOW THEREFORE, in consideration of the promises and covenants contained herein and for other good and valuable consideration, the parties agree as follows:

1.0 License and Limited Sublicense Grant.

1.1 **Limited License.** Provided that Licensee complies with the terms, conditions and provisions hereof, Judson hereby grants Licensee a limited, non-exclusive, revocable, non-transferable license, with no right of sublicense (unless specifically provided for herein), to use the Marks and Logos selected in the list above, ("Licensed Marks and Logos") by placing the

* Renewal Pending – common law right remains in place.

Licensed Marks and Logos on, but not limited to, promotional printed materials, clothing and sports apparel for commercial sale within San Antonio and Surrounding Counties, either directly by the Licensee, by third-party vendors, or foundations associated with the District.

1.2 **Limited License to Sublicense.** Judson hereby grants to the Licensee a limited, non-exclusive, revocable, non-transferable license to sublicense the Marks and Logo to third-parties with which Licensee has either: 1) contracted to provide advertising or promotional services for Licensee; 2) contracted to manufacture merchandise for Licensee; and, 3) contracted to distribute Licensed Products in connection with Licensee's promotional activities using the Licensed Marks and Logo as permitted herein. Licensee shall require all such third-parties to agree in writing to all terms and conditions necessary and appropriate to protect the Judson's right, title and interest to the Logo; which shall include, but not be limited to, all applicable terms and conditions of this Agreement, and which shall also provide that Judson shall be a third party beneficiary of each such agreement.

1.3 **Reservation of Rights.** Except for the limited license rights granted herein, (hereinafter collectively referred to as "Licenses") Judson reserves to itself all right, title and interest in and to the Marks and Logo.

2.0 License Requirements and Limitations. The Licenses granted herein are granted subject to the following requirements and limitations:

2.1 **Compliance with Judson Guidelines.** Judson shall have absolute determination and control, in its sole discretion, over the design, redesign, modification, change, enhancement, improvement, authorized or unauthorized use, manner and degree of application, manner and extent of registration, maintenance, protection, enforcement, ownership, licensing, use and termination of the Licensed Marks and Logos. Licensee shall comply with all requirements set out in this Agreement in its use of the Licensed Marks and Logos.

2.2 **Geographic or Usage Limitations.** In the event Judson determines that use of any Licensed Marks and Logos covered by this Agreement may in any particular manner or jurisdiction violate any applicable laws or regulations, be contrary to public policy or may subject Judson or Licensee to any third party claims, legal proceedings, governmental investigations or proceedings, penalties or liabilities, Licensee agrees, upon receipt of notice and request from Judson, to promptly cease and desist from all use of the Licensed Marks and Logos in such particular manner or jurisdiction.

2.3 **Specific Use Restrictions.**

2.3.1 The Licenses granted in this Agreement may be used solely in connection with the sale of, but not limited to, promotional printed materials, clothing and sports apparel that have been permitted by Judson to bear the logo, and only for the duration granted, and are subject to the restrictions and obligations of Licensee set forth in this Agreement, including, without limitation, the following:

- a) Licensee shall not modify, enhance or change, break apart any Licensed Marks and Logos, cut it into pieces, combine it with another mark or use, adopt or register any marks confusingly similar to the Licensed Marks and Logos.
- b) Licensee shall not omit portions or use a partial version of the Licensed Marks and Logos.
- c) Licensee shall not superimpose the Licensed Marks and Logos over other copy.

d) Licensee shall not use the Licensed Marks and Logos: (a) in any manner that is likely to reduce, diminish or damage the goodwill, value or reputation associated with the Licensed Marks and Logos; (b) in any manner as would violate the rights of any third- parties; (c) in any manner as would result in any third-party claim or in any governmental investigation, claim or proceeding alleging unlawful or improper use of the Licensed Marks and Logos; (d) or on or in connection with any goods, services or activities except as permitted under the licenses granted in this Agreement.

e) When using the District's Federal Registered Service Marks: JUDSON ROCKETS[®] (USPO Reg. No. 3,628,363/Date: May 26, 2009) and JUDSON ROCKETS Logo[®] (USPO Reg. No. 3,636,941/Date: June 9, 2009)* Licensee shall include the federal registration notice symbol ® (the letter "R" in a circle) in connection with the use of such mark in order to protect the registered marks.

f) When using the District's State Registered Service Marks: WAGNER THUNDERBIRDS[™] - (TX Reg. No.80083328/Date: July 6, 2007) WAGNER THUNDERBIRDS Logo[™] - (TX Reg. No. 80083301/Date: June 18, 2008), JUDSON EARLY COLLEGE ACADEMY[™] [(TX Reg. No. 802638650/Date: March 31, 2017)] and VETERANS MEMORIAL HIGH SCHOOL[™] [(TX Reg. No.802638688 Date: January 26, 2017)]. Licensee shall include the trademark notice symbol[™] (the letters "TM" in superscript next to the logo) in connection with the use of such mark in order to protect the registered marks.

2.3.2 The Licensed Marks and Logos may **not** be used in connection with any of the following:

- a) Any product that competes with any exclusive licensee of Judson, either directly or indirectly;
- b) Any product that criticizes or disparages Judson, or otherwise has a tendency to injure the reputation of Judson;
- c) Any product or printed matter that promotes, describes or endorses activity or behavior that is unlawful;
- d) Any product or printed matter that promotes, describes or endorses activity or behavior that, if performed, would constitute a safety hazard;
- e) Any product or printed matter that that promotes, describes or endorses activity, behavior, or beliefs that can reasonably be deemed offensive to any group of persons, including without limitation activity, behavior, or beliefs related to race, religion, ethnicity, sexual orientation, disability or age; or
- f) Any product or printed matter that contains a statement, speech, graphic, or textual work that is obscene, defamatory, or slanderous.

2.4 **Inspection.** When Licensee creates promotional material that contains the Licensed Marks and Logos, Licensee will send samples or photos of the material to Business Partnership Coordinator at Judson ISD, 8012 Shin Oak Drive, Live Oak TX 78233 or other Judson representative designated in writing, for review, in the manner set out for "Notice" in this Agreement. If Licensee has not been notified of an adverse analysis within fifteen (15) business days of delivery to the Judson, these samples will be deemed satisfactory under this Agreement.

However, if notified by the Judson representative of any corrections, Licensee will promptly make changes in the material to conform to the Judson's suggested changes.

2.5 Nonconforming Goods, Services, Activities and Materials. If Licensee becomes aware at any time that any goods, services, activities or materials with which it is using the Licensed Marks and Logos do not comply with the requirements of this Agreement, it will, at its sole cost and expense, immediately cease all use of the Licensed Marks and Logos on or in association with the nonconforming goods, services, activities or materials, as applicable, and shall immediately discontinue distribution of any non-compliant or nonconforming tangible items. Licensee will immediately remove the non-conforming Marks and Logos from all such tangible items, or if it is not feasible or is impractical to remove the non-conforming Marks and Logos from such items, destroy them.

2.6 Third-Party Infringement. Licensee will promptly notify Judson if it becomes aware of any infringement of the non-conforming Marks and Logos by a third-party. Licensee shall have neither the right nor the obligation to prosecute any infringement claims against third-party infringers.

3.0 License Fee. Licensee will pay Judson ISD License Fees at the following address: Business Partnership Coordinator, Judson ISD, 8012 Shin Oak Drive, Live Oak, TX 78233, checks for License Fee and all other sums payable under this Agreement should be made payable to **Judson ISD Education Foundation**. The License Fee should be calculated on the following basis (*Initial choice*):

3.1 _____ No royalty will be charged in accordance with Board Policy CY(Local) - Licensee is a student, student organization, parent organization and other District affiliated school-support or booster organization using the District and campus trademarks to promote a group of students, an activity or event, a campus, or the District, and the use is in furtherance of school-related business or activity. The Superintendent or designee shall determine what constitutes use in furtherance of school-related business or activity and is authorized to revoke permission if the use is improper or does not conform to administrative regulations.

3.2 _____ A fixed fee of \$ _____ per school year payable on execution of this Agreement and on each annual renewal date of this Agreement.

3.3 _____ A royalty based on gross revenue of products bearing the Licensed Marks and Logos. The royalty rate is ten (10%) of the Licensee's Gross Revenue realized from the sale or Sublicense of products bearing the Licensed Marks or Logos. Royalties under this Paragraph 3.3 must be paid on a quarterly basis.

"Gross Revenue" shall be determined based upon the following:

With regard to sales by the Licensee directly to the public, if any, all receipts and revenues of every kind and character derived from, arising out of, or payable on account of the sale of goods bearing any Licensed Marks and Logos, whether such sales are evidenced by cash, credit or debit, exchange or otherwise.

With regard to items bearing the Licensed Marks or Logos, where goods will be sold or produced and sold by a Sublicensor under a Sublicense Agreement with Licensee, Gross Revenue of the Licensee (on which its percentage fee shall be based) shall include revenue realized from any flat or percentage based fee charged by Licensee to a Sublicensee. It is the intention of the Licensor that License Fees be paid based upon all revenue coming

into the Licensee, including those realized by direct sales AND through sublicensing the Marks and Logos to third party vendors.

The amounts of any sales or gross receipts tax imposed by any federal, state, or municipal governmental authority, added to the selling price of Licensed Products, and paid directly by Licensee or permitted Sublicensee to such governmental authority, whether currently or hereinafter levied or imposed shall be **excluded** from Gross Revenue, as will any revenue realized by Sublicensee.

4.0 Covenant Not to Challenge the Marks and Logos, or Ownership of Marks and Logos. Licensee, by its signature below, acknowledges the validity and enforceability of the Licensed Marks and Logos, and that Judson is the sole and complete owner of the Marks and Logos. Licensee, for itself and its permitted Sublicensees, successors and assigns hereby forever covenants not to challenge the validity and enforceability of the Licensed Marks and Logos, or challenge Judson's ownership of any of the Licensed Marks and Logos, not to assist any third-party in challenging the validity and enforceability of the Licensed Marks and Logos, or Judson's ownership of the Licensed Marks and Logos, and not to cause any third-party to challenge the validity and enforceability of the Licensed Marks and Logos, or Judson's ownership of the Licensed Marks and Logos.

5.0 Term and Termination.

5.1 Term. This Agreement shall be effective upon execution by both parties and continue in force and effect for one year. Thereafter the Agreement will be subject to renewal for subsequent one year periods upon mutual agreement of the Parties and payment of the required License Fee for the coming year. Except with regard to the changes in the License Fee and/or the coverage of additional Licensed Marks and Logos, the terms of this Agreement shall apply to all subsequent renewals.

5.2 Termination without Cause: Either party may terminate this Agreement without cause and without penalty; ninety (90) days' after written notice is received by the non-terminating party from the terminating party ("Termination Effective Date"). License Fees prepaid prior to the Termination Effective Date shall be reimbursed by Judson on a prorated basis.

5.3 Termination with Cause. In the event that the Licensee is in breach or default of any warranty, representation, or provision of this Agreement, Judson may terminate this Agreement with cause, after providing written notice to Licensee setting forth the alleged breach or default, and providing Licensee with a "cure" period of thirty (30) days from Licensee receipt of such notice. In the event that Licensee is unable or unwilling to correct such breach or default to the reasonable satisfaction of Judson during the "cure" period, this Agreement shall terminate automatically at the expiration date of the "cure" period. No waiver of any breach or default by Licensee of the Agreement shall be effective unless in writing signed by the president of the Judson Board of Trustees or his or her designee.

5.4 Effect of Termination: Upon termination of this Agreement for any reason, all rights granted hereunder to Licensee shall immediately and automatically revert to the Judson, and Licensee shall immediately cease to produce new or additional Licensed Products bearing the Licensed Marks and Logos. Licensee may, however, continue to sell off or otherwise deplete its reasonable inventory of Licensed Products then existing as of the Termination

Effective Date for a period not to exceed ninety (90) days from such date, PROVIDED that such inventory is in strict compliance with the requirements guidelines and restrictions this Agreement and have been approved by Judson in accordance with Paragraph 2.4. Any other use of the Licensed Marks and Logos after such termination will exceed the scope of the License granted hereunder and may constitute infringement of Judson's intellectual property or other rights. If termination is "for cause" Licensee shall not be entitled to any reimbursement of pre-paid License Fees.

6.0 DISCLAIMER OF WARRANTIES.

THE LICENSED MARKS AND LOGOS ARE PROVIDED AS IS, WHERE IS, AND NEITHER JUDSON NOR ANY OF ITS EMPLOYEES, OFFICERS, TRUSTEES, EMPLOYEES, AGENTS, ELECTED OFFICIALS OR REPRESENTATIVES (THE "JUDSON PARTIES") MAKES ANY REPRESENTATIONS OR WARRANTIES CONCERNING THE LICENSED MARKS AND LOGOS, INCLUDING ANY WARRANTIES OF TITLE. JUDSON UNDERTAKES NO RESPONSIBILITY FOR INDEMNIFYING THE LICENSEE OR ANYONE AFFILIATED WITH THE LICENSEE, INCLUDING ANY USERS OF ANY PRODUCTS OR SERVICES IN CONNECTION WITH WHICH LICENSEE USE THE LICENSED MARKS AND LOGOS, AGAINST ANY LOSSES, INJURY CLAIMS, LIABILITIES, DEMANDS OR JUDGMENTS ARISING OUT OF LICENSEE'S USE OF THE LICENSED MARKS AND LOGOS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, THE JUDSON PARTIES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, RELATED TO THE LICENSED MARKS AND LOGOS, INCLUDING (BUT NOT LIMITED TO), IMPLIED WARRANTIES OF MERCHANTABILITY, CLEAR TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. JUDSON CANNOT GUARANTEE THAT IT OWNS ALL RIGHTS NECESSARY TO GRANT THE LICENSE DESCRIBED HEREIN. LICENSEE ASSUME ALL RISK AS TO THE SUITABILITY, QUALITY, AND PERFORMANCE OF THE LICENSED MARKS AND LOGOS FOR THE USES OUTLINED HEREIN. IN NO EVENT WILL ANY JUDSON PARTY BE LIABLE TO LICENSEE OR ANYONE AFFILIATED WITH LICENSEE, INCLUDING USERS OF ANY PRODUCTS OR SERVICES IN CONNECTION WITH WHICH LICENSEE USE THE LICENSED MARKS AND LOGOS, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, INJURY TO PERSONS OR PROPERTY, BUSINESS INTERRUPTION, LOSS OF DATA OR BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THE USE OF THE LICENSED MARKS AND LOGOS, EVEN IF JUDSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.0 Indemnification. Licensee hereby agrees to defend, indemnify and hold each and every one of the Judson Parties harmless against all liability, cost, loss, expense (including reasonable attorneys' fees), or damages paid, incurred, or occasioned by any claim, demand, suit, settlement, or recovery against any Judson Party, arising out of Licensee's breach or claimed breach of this Agreement; the use of the Licensed Marks and Logos and/or Licensed Products by Licensee or any third party; the manufacture, distribution, advertisement or sale of Licensed Products; and for any alleged defects in the Licensed Products.

8.0 Judson's Remedies Upon Breach.

8.1 **Remedies.** If Licensee breaches this Agreement, including by exceeding the scope of the License granted herein, Judson will be entitled to pursue all remedies available to it at law and/or equity. Without limiting the foregoing, Licensee agrees that any use different from that described in this Agreement will exceed the scope of the License granted herein and will therefore constitute a material breach of this Agreement. Judson may elect to pursue any damages available to Judson at law or equity. In any action brought by Judson to enforce the terms of this Agreement or seek remedies for its breach, including Licensee's exceeding the scope of the License granted herein, Judson will be entitled to receive all attorneys' fees and costs incurred in any such action. Licensee acknowledges that Licensee exceeding the scope of the License granted herein will irreparably harm Judson, and that monetary damages arising from such a breach would be difficult to calculate. Judson is, therefore, entitled to bring an action for temporary, preliminary, or permanent injunctive relief to prevent or stop any breach or threatened breach of this Agreement that involves exceeding the scope of the License granted hereunder, without need for posting of bond or other security.

8.2 **Alternative Dispute Resolution.** In the event that Judson or Licensee shall contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute. Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties. In the event the Parties are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred. Venue for any mediation or lawsuit arising under this contract shall be in Bexar County, Texas. No provision of this Agreement shall waive any immunity or defense. No provision of this Agreement is consent to suit.

9.0 Miscellaneous.

9.1 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas as applied to agreements entered into and fully performed therein by residents thereof. Both parties submit to jurisdiction in Texas and further agree that any cause of action arising under this Agreement shall be brought in a court in Bexar County, Texas.

9.2 **Severability; Headings.** If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.

9.3 **Independent Contractors.** The parties are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement. Neither party shall make any warranties or representations on behalf of the other party.

9.4 **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Agreement, their assigns.

9.5 **Notice.** Unless otherwise expressly provided elsewhere in this Agreement, any election, notice or communication required or permitted to be given under this Agreement shall

be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or on receipt after mailing the same by certified mail, return receipt request with proper postage prepaid, or three (3) days after mailing the same by first class U.S. mail, postage prepaid (in accordance with the "Mailbox Rule"), or when sent by a national commercial courier service such as Federal Express) for expedited delivery to be confirmed in writing by such courier at the physical addresses for the parties listed in the signature blocks below.

9.6 No Third Party Beneficiaries. For purposes of this Agreement, including its intended operation and effect, the Parties specifically agree and contract that: (1) this Agreement only affects matters/disputes between the Parties to this Agreement, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with Judson or Licensee or both, or that such third parties may benefit incidentally by this Agreement; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either Judson or Licensee.

9.7 Entire Agreement; Waiver. This Agreement sets forth the entire understanding and agreement of the parties and supersedes any and all oral or written agreements or understandings between the parties as to the subject matter of this Agreement. This Agreement may be changed only by a writing executed by both parties that expressly states that it is changing the provisions of this Agreement. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

9.8 Assignment. Licensee may not transfer its rights or obligations under this Agreement in whole or in part to any third party without the prior written consent of the Judson and any attempt to do so is void.

9.9 Legal Authority. The signatories of this Agreement for Judson and Licensee each represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Judson and Licensee respectively, and to bind Judson and Licensee to all of the terms, conditions, provisions and obligations herein contained.

9.10 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

9.11 No Waiver of Immunity. Judson does not waive or relinquish any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this Agreement and performance of the covenants, functions or obligations described herein. No provision of this Agreement is consent to suit.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on this the ____ day of _____, 20__.

JUDSON INDEPENDENT SCHOOL DISTRICT	LICENSEE:
<p>By: _____ Dr. Jeanette Ball, Superintendent</p> <p>Address for Notice: JUDSON ISD Attn: Superintendent 8012 Shin Oak Drive Live Oak TX 78233</p> <p>With Copy to: JUDSON ISD Attn: Business Partnerships Coordinator 8012 Shin Oak Drive Live Oak TX 78233</p>	<p>By: _____ _____ Printed Name and Title</p> <p>Address for Notice:</p>