**[COMMERCIAL CO-VENTURER LETTERHEAD]**

**[Date]**

**[Name]**

**[Title]**

**[Charity]**

**[Address]**

**[City/State/Zip Code]**

 Re: Commercial Co-Venturer Promotion[[1]](#footnote-1)

Dear \_\_\_\_\_\_\_\_\_\_\_\_\_:

 This letter will confirm the details of the agreement between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Sponsor”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Charity”) regarding the particular promotional program described below, to be conducted by Sponsor to benefit Charity (the “Promotion”).

1. The Promotion will be conducted nationwide in the United States **[correct?]** from approximately **[date]** through **[date]** (the “Promotion Period”).[[2]](#footnote-2)

2. Sponsor will donate **[designate donation]** to Charity for each unit of the **[item – specify size, flavor, etc.; be precise to avoid misunderstanding]** shown in Exhibit A to this letter (the “Products”) sold during the Promotion Period.[[3]](#footnote-3)

3. All public materials that mention the Promotion will accurately describe the terms of the offer and Charity’s mission, will include contact information for Charity, and must be approved in advance by Charity whose approval will not be unreasonably withheld or delayed. This Agreement, and any permission to use a party’s name or marks, may be terminated immediately upon written notice by either party to the other if such other party, or anyone acting on its behalf, engages in any conduct which is criminal or would tend to damage the reputation of the terminating party.

4. **[Sponsor will provide Charity with an initial donation payment from the Promotion on or about ninety days after the Promotion starts, and every 90 days thereafter during the Promotion Period]**. The final donation payment will be made within ninety (90) days after the end of the Promotion Period. Each payment will be accompanied by an accounting of the available results of the Promotion to date, including but not limited to income from sale of the Products and a per-unit calculation of the amount of the donation. The final donation payment will include a final accounting for the entire Promotion, certified by an officer of Sponsor to be accurate. Charity shall have the right to review or audit the books and records of Sponsor relating to the Promotion to verify the accuracy of any payment(s). Any such review or audit shall be conducted during regular business hours, upon reasonable prior notice, at the place where the relevant records are regularly kept, at Charity’s expense; provided that if the review or audit reveals an underpayment of more than 5%, Sponsor shall pay the reasonable costs of the review/audit in addition to the shortfall.

5. Charity and Sponsor understand that it is not possible to predict how many units of the Products will be sold during the Promotion Period, but, barring unusual circumstances, the anticipated number is at least \_\_\_\_\_\_\_\_\_ units.

6. The Promotion will be subject to all applicable laws, including but not limited to Title 43, chapter 17 of the Georgia Code, Section 7:28 of the New Hampshire Statutes, and the New Jersey Charitable Registration and Investigation Act (N.J. Stat. § 45:17A-18 et seq.) and any rules adopted pursuant thereto. Each party shall be responsible for complying, at its own expense, with all requirements imposed by law or regulation on it as a result of its role in the Promotion, including but not limited to any obligation to register, post bonds, or take other actions under state law as a charity or a commercial co-venturer. Charity’s Registration number in South Carolina is \_\_\_\_\_\_\_\_\_\_.

7. This agreement is cancelable by Charity in the State of New York for fifteen (15) days after execution by both parties by sending written notice of cancellation to Sponsor at its address listed above with a duplicate notice to: State of New York, Office of the Attorney General, Charities Bureau, 120 Broadway, New York, NY 10271.

8. Each party will indemnify, defend and hold harmless the other party against any third-party claims and all resulting liabilities, losses and costs (including reasonable attorneys' fees) arising out of: (a) any negligence, willful misconduct or breach of this Agreement by the indemnifying party, and (b) the sale, use or advertising of any products or services of the indemnifying party. Each party will give the other prompt notice of any such claim. The indemnifying party shall have the right to control the defense of the claim. The indemnified party may participate in the defense at its own expense.

If the above terms are acceptable, please have two officers of Charity sign both copies of this letter where indicated below, and return one completed original to me.

 Very truly yours,

 Name/Title

**ACCEPTED AND AGREED BY**

**[ Name of Charity ]**

By: By:

Name: Name:

Title: Title:

Date: Date:

1. **This document is just a sample. It illustrates the minimum points to cover in a typical CCV deal.**

**It is not intended as legal advice. Additions, deletions, or changes may be appropriate in certain circumstances or from the point of view of either party. Consult competent legal counsel to address the particular facts of your situation and to make any appropriate changes. © Greenberg Traurig LLP, 2015. Reproduced with permission**. [↑](#footnote-ref-1)
2. If you are concerned about leftover product inventory bearing the Charity name after the promotion is over, consider adding provisions to deal with such inventory, such as allowing continued sale for a limited time subject to continued payment of the per-unit donation. [↑](#footnote-ref-2)
3. If there is a cap on the maximum donation, you should discuss the situation with the sponsor to try to minimize any risk of potential consumer confusion or deception. Some options include limiting the number of units of the eligible product, providing a way to terminate the promotion if the cap is reached, etc. Of course, the best option is not to have a cap. [↑](#footnote-ref-3)