

TECHNICAL ASSISTANCE AGREEMENT

This Agreement (the “Agreement”) is signed by and entered into between:

ABC XYZ LTD., a Indian-foreign joint venture company incorporated under the provisions of Companies Act, 1956 having its Registered Office at..... India (“ABC XYZ”), represented in this Agreement by Mr..... General Manager and.....National

And

The XYZ Company, a corporation existintg under the laws of the State of California, United States of America, with offices at....., USA (“XYZ”), represented in this Agreement by Mr....., Vice President and Comptroller, XYZ International, and Unitd States National.

Whereas:

I. XYZ (India) Ltd. (“XYZ India”), a Company established and existing under the laws of India having its Registered Office at.....India., is partially owned foreign subsidiary of XYZ;

II. On....., XYZ India as one of the contract Parties signed a Joint Venture Contract (ther “Joint Venture Contract”) which provided for the formation of ABC XYZ and as one of the principal provisions of the Joint Venture Contract, XYZ India undertook to cause XYZ to assist ABC XYZ in executing a contract with XYZ which would make available to ABC XYZ technical assistance necessary for its operation;

III. The XYZ worldwide organization is engaged in the manufacture and sale of high quality.....products and possesses valuable technical skills and information and other expertise in respect of the design, manufacture, development, sale and marketing of such products and is willing to make the same available to ABC XYZ; and

IV. ABC XYZ will own a plant in Bangalore for the production of such products and in order to compete successfully in India with other sellers of

similar products, ABC XYZ desires to obtain from XYZ technology and technical assistance appropriate to the brands which ABC XYZ currently produces or may in the future manufacture and develop,

Now, Therefore, the Parties hereto agree as follows:-

## ARTICLE 1

### Definition of terms

“Technical Materials”, refers to the technology, standards, formulae, information, drawings, handbooks, computer diskettes, and all other materials to be provided by XYZ, in accordance with this Agreement. All such Technical Materials are the property of XYZ and shall be considered to be confidential information by ABC XYZ.

## Article 2

### Technical Assistance

2.1 XYZ shall make available to ABC XYZ technical assistance, skills and other expertise necessary to attain the business objectives of ABC XYZ. The fee will be three per cent (3%) based on net sales of the Company. The purposes of providing technical assistance are:

(a) to enable ABC XYZ to manufacture and develop products of world-class quality and to market these at competitive prices;

(b) to assist ABC XYZ in maintaining high and up-to-date standards for its operations, including, but not limited to, the continuing improvement of production capacity, product quality and design, equipment design, personnel training, manufacturing standards, marketing, sales and management systems.

2.2 XYZ's technical assistance shall consist of providing advice and making available to ABC XYZ appropriate techniques, specifications, formulae, information, recommendations, systems and methods related to:

(a) product information, ingredient functions, and usage factors;

(b) specifications for raw materials, ingredients and pre-mixes, including techniques and procedures for quality control, handling, and storage;

© processes of manufacture, including trial operations, product development, manufacturing and quality standards, analytical testing, laboratory control techniques, and product release or disposal methods;

(d) engineering standards and safety equipment and facilities (including environmental protection facilities), programs, and procedures;

(e) technical and commercial guidance in the buying and shipping of raw materials, parts, particularly from international markets and indicating which are the most reliable sources meeting the required specifications and quality standards. In this respect, XYZ shall help develop local sources, among others by furnishing appropriate technical guidance to enable local raw and packaging material suppliers to meet XYZ's specifications and standards; the XYZ worldwide organization shall supply to ABC XYZ those XYZ proprietary ingredients or formulae and specifications supplies by XYZ. These proprietary ingredients from time to time, which shall not be higher on a comparable basis than the prices charged by XYZ to its affiliates. Any proprietary ingredient or material supplied by any XYZ Company shall be

stored in accordance with the instructions of XYZ and no sample shall be given to any other party without the written consent of XYZ;

(f) maintenance by ABC XYZ of its buildings, warehouses, laboratories, machinery and equipment;

(g) forecasting and scheduling by ABC XYZ of production and inventories and calculating their costs;

(h) preparation by ABC XYZ of monthly and long-term forecasts of sales, advertising and cash-flow;

(i) product research and analyses by ABC XYZ of consumer needs and motivations in order to ensure appropriate application of technology which will respond to these needs;

(j) training of managerial, supervisory and technical personnel on ABC XYZ premises and, if agreed to be necessary by ABC XYZ and XYZ, this training shall be made available by XYZ in XYZ locations or other appropriate establishments outside the India. All costs for ABC XYZ personnel sent for training outside India (e.g., salary, traveling and living

expenses, etc.) shall be borne by ABC XYZ except in those cases of long term assignments where the transferee shall perform normal functions in the receiving company where XYZ policy provides for the payment of the salary and other allowances by the receiving company;

(k) planning and efficient execution by ABC XYZ of all marketing operations for its products, including market analyses and research, pricing, advertising, and promotions and consumer contacts;

(l) planning and execution by ABC XYZ of cost saving projects throughout its operation on an ongoing basis.

2.3 The technical assistance to be rendered by XYZ shall cover all products manufactured by or for ABC XYZ.

2.4 The General Manager of ABC XYZ shall request technical assistance from XYZ and it is required and XYZ shall inform ABC XYZ of the number of persons providing the services and the nature of the services to be provided.

## Article 3

### Commitments of ABC XYZ

3.1 ABC XYZ shall cooperate fully with XYZ to permit XYZ to fulfill its commitments under Article 2 hereof.

3.2 The following are the key obligations of ABC XYZ under this Agreement:

(a) Providing sufficient funds and employing the necessary personnel for the projects undertaken by ABC XYZ;

(b) Providing and maintaining the buildings, machinery, and equipment necessary to manufacture and store its products in accordance with the specifications and standards to be provided by XYZ and to distribute the products in adequate quantities to meet the market needs;

© Purchasing and verifying the quantity and quality of the raw and packaging materials, ingredients, pre-mixes, and machinery on the basis of XYZ's advice and from suppliers endorsed by XYZ as meeting XYZ's quality standards;

(d) Packing and manufacturing its products in sufficient quantities to meet the scheduled requirements of ABC XYZ;

(e) Taking inventories and making accounts and reports in the form and content and at the time requested by XYZ;

(f) Dispatching to XYZ such samples of regular production of ABC XYZ products as XYZ may request to assure that production continues to be in accordance with the formulae, specifications, manufacturing standards and usage factors prescribed and that it conforms to the standards and quality established by XYZ. All expenses for shipping the samples to XYZ shall be for the account of ABC XYZ. In addition, ABC XYZ shall dispatch to XYZ, on reasonable request, reports of its own quality controls, laboratory analyses, production runs, etc.;

(g) Taking out adequate insurance coverage to cover any loss, injury or damage which may be suffered by XYZ's visiting personnel or property while on ABC XYZ premises for the implementation of this Agreement. Such insurance shall be in addition to the insurance XYZ normally provides for its employees;

(h) Applying for all licences, permits, visas, and other rights or Government authorization in the India necessary to desirable to fully carry out this Agreement; and

(i) Protecting the confidentiality of XYZ's technology, know-how, and other proprietary information and knowledge. ABC XYZ shall ensure that its employees respect the confidentiality of the Technical Materials and the information and know-how contained therein.

#### Article 4

##### Reimbursement of expenses

ABC XYZ shall reimburse XYZ on a quarterly basis for all expenses XYZ incurs in connection with its provision of technical assistance as described in Article 2 within (30) days after presentation by XYZ to ABC XYZ of its invoice. These expenses shall include lodging, food and salaries of technical experts visiting ABC XYZ. XYZ should provide an estimate of these expenses and obtain ABC XYZ's written consent. XYZ shall provide to

ABC XYZ such documentation supporting these expenses as may be required.

## Article 5

### Termination

5.1 Any of the following occurrences affecting either of the Parties to this Agreement shall give the other Party the right to terminate this Agreement forthwith: the insolvency, bankruptcy, or liquidation of a Party; the seizure, confiscation, expropriation, or appropriation of a substantial part of its asset by any third party, or the appointment of a receiver for any such assets.

5.2 If either Party Breaches any of the terms and provisions of this Agreement, the other Party shall have the right, within a reasonable time after discovery of the breach, to terminate this Agreement by giving the Party in default not less than.....(...) days advance written notice of termination. The said notice, however, shall have no effect if the Party in default cures the default before the date of termination specified in the notice.

In case of a termination for breach of this Agreement by either ABC XYZ or XYZ, the Party in default may be held liable for damages but only if the

breach is proven to be willful. In any event the liability for damages of XYZ under this Agreement shall be limited to its indirect investment participation in ABC XYZ.

5.3 The Agreement may also be effectively terminated with.....(.....) days advance written notice: (a) by ABC XYZ, if either the Joint Venture Contract mentioned above or the Trademark License Agreement which is to be signed between ABC XYZ and XYZ contemporaneously with this Agreement is terminated for reasons or causes attributable to the deliberate failure of XYZ to discharge its obligations under the above contract or agreement; or (b) by XYZ, if either the said Joint Venture Contract or the said Trade mark License Agreement is terminated for any reason by XYZ India or XYZ for any cause enumerated in the said contract or agreement.

5.4 Subject to paragraphs 5.1, 5.2 and 5.3, this Agreement shall remain in effect for as long as XYZ has a direct or indirect investment participation in ABC XYZ. XYZ shall have the option to terminate the Agreement on.....( ) days notice if XYZ no longer owns directly or indirectly an investment participation in ABC XYZ.

## Article 6

### General

6.1 XYZ and ABC XYZ shall keep secret and shall not in any way disclose to any third party even after the termination of this Agreement any part of this Agreement, or any other agreements by the Parties, or any aspect of the negotiations leading to such agreements, and any information on the business of the other or any information about the products of XYZ or ABC XYZ acquired by reason of or in connection with this Agreement, except as required by law or when disclosure is necessary to enable a Party to discharge an obligation hereunder. In case of a need to disclose, the prior agreement of the other Party shall be secured before disclosure is made.

6.2 Even after the termination of this Agreement, ABC XYZ may continue to manufacture products of the same category as the product covered by this Agreement provided these products shall not be confused with any XYZ product by reason of packaging or external appearance which could cause such confusion when combined with similar packaging or external

appearance. ABC XYZ shall not advertise any other product in a manner similar to the advertising used for a XYZ product. This prohibition supplements XYZ's rights under the laws prohibiting unfair competition or for the protection of industrial property.

6.3 XYZ shall make available to ABC XYZ-up-to-date copies of XYZ's Technical Materials relating to the products produced by ABC XYZ, including any improvements to such Technical Materials. The Technical Materials made available shall be complete, clear and consistent with the Technical Material in use by XYZ.

6.4 In the event of the Technical Materials supplied to ABC XYZ do not meet the requirements of Article 6.3, XYZ shall provide ABC XYZ with the supplemental Technical Materials needed within..... ( ) days after receipt of a written request from ABC XYZ.

6.5 XYZ warrants that it has the right to make available to ABC XYZ the technology, processes and know-how covered by the Technical Materials and that ABC XYZ may use these in its operations, subject to the conditions and

limitations set forth herein, except for processes and other inventions indicated in the Technical Materials to be owned by third parties.

In the event of an infringement claim by a third party against ABC XYZ based upon ABC XYZ's use of Technical Materials, XYZ undertakes to defend ABC XYZ and hold it harmless against any such claim. ABC XYZ shall provide XYZ the necessary assistance for its successful defence against such a claim.

6.6 As long as XYZ has a direct or indirect majority interest in ABC XYZ, ABC XYZ may continue to sue whatever know-how it may have acquired under this Agreement after the termination of the Agreement, except those for which XYZ has a registered proprietary right.

6.7 The expiration of this Agreement shall not affect the obligation of the Parties to pay or receive whatever payments have become due under this Agreement. These shall be settled as promptly as they fall due.

6.8 (a) In order to protect any technology and technical materials provided to ABC XYZ pursuant to this Agreement, ABC XYZ shall not engage, directly or indirectly, in India or elsewhere in any activity involving any of

the products being marketed by XYZ or a related company, without the prior written consent of XYZ, Notwithstanding the preceding sentence, ABC XYZ shall not engage, directly or indirectly, in India or elsewhere in any activity involving any of the products being marketed by XYZ or a related company, with any of the competitors, or a related company, listed on Enclosure-I attached hereto.

(b) In order to protect any technology and technical materials provided to ABC XYZ pursuant to this Agreement, no officer, director or employee of ABC XYZ shall engage, directly or indirectly, in India or elsewhere in any activity involving any of the products being marketed by XYZ or a related Company, without the prior written consent of XYZ. Notwithstanding the preceding sentence no officer, director, or employee of ABC XYZ shall engage, directly or indirectly, in India or elsewhere in any activity involving any of the products being marketed by XYZ or a related company, with any of the competitors, or a related company, listed on Enclose I attached.

## Article 7

### Force majeure

7.1 For purposes of this Agreement, “force majeure” refers to any act or event that can not be foreseen or even if foreseen is inevitable and which, renders the performance of an obligation under this Agreement legally impossible or difficult beyond the contemplation of the Parties. Force Majeure, as herein used, includes but is not limited to natural disasters, wars, Government decrees, and laws.

7.2 If one of the Parties is unable to discharge an obligation under this Agreement by reason of force majeure, such Party shall immediately notify the other, describing the cause or event constituting the force majeure. The Party, which has been prevented from performance by virtue of force majeure shall not be liable for damages due to delay or non-performance, provided that timely notice is served as herein indicated, and that the Party takes all necessary actions to prevent other damages from occurring by reason of its non-performance or delay and that it performs its obligation as soon as the force majeure disappears.

## Article 8

### Applicable law and forum

8.1 This Agreement shall be governed by the Indian Laws. In the event that there is no relevant provision of Indian law, international practices may be used as a reference.

8.2 Any dispute arising directly or indirectly out of this Agreement shall be settled through friendly consultations. If no settlement can be reached through consultations within.....(.....) days written notice by one Party to the other, either Party may submit the dispute for arbitration with the Indian Council of Arbitration in accordance with Article 24 of the Joint Venture Contract. An Arbitrator shall be chosen by each Party And the two arbitrators shall chose a third Arbitrator. The decision of the arbitrators shall be final and binding upon both the parties hereto.

## Article 9

## Notices

Notices or other communication required to be given by any Party or the Company pursuant to this Contract shall be written in English and delivered by personal delivery, registered post or under certificate of posting, facsimile to the address of the other Party set forth below or to such other address as may from time to time be designated by any Party through notification to the other Party, and to the Company at its registered address as in effect from time to time. The date on which notices shall be deemed to have been effectively given shall be determined as follows:-

- (a) Notices given by personal delivery shall be deemed effectively given on the date of personal delivery;
- (b) Notices given by registered post shall be deemed effectively given at the time at which the letter would be delivered in the ordinary course of post;
- © Notices given by facsimile shall be deemed effectively given on the first business day following the date of transmission, as indicated on the document in question.

ABC XYZ

ABC XYZ Ltd.

India

Attention: Mr.

XYZ:

The XYZ Company

Attention: Mr.....

## Article 10

### Language of the agreement

This Agreement is written in English

## Article 11

### Validity

This Agreement shall remain effective for as long as the Joint Venture Contract is in force, unless terminated as herein provided in Article 6.

## Article 12

### Execution copies

This Agreement is executed in English in three (3) original counterparts. ABC XYZ, XYZ and XYZ India shall each keep one original copy.

In witness Whereof, the Parties have signed this Agreement on the dates and place mentioned below.

The XYZ Company

By.....

ABC XYZ Limited

By:.....

Date:

