

Australian Trade Mark Application No 1282169
Mark: NOCSAE
Class: 28
Owner: The National Operating Committee on
Standards for Athletic Equipment
Our Ref: 847107

RULES OF USE OF CERTIFICATION TRADE MARK

The following provides an outline of the National Operating Committee on Standards for Athletic Equipment ("NOCSAE") and its Certification Trade Mark. This outline includes details of the candidate requirements and the standards that must be met and maintained in order to use the NOCSAE Certification Trade Mark.

The NOCSAE Certification Trade Mark may not be used in any way other than in accordance with the rules set out in this document.

BACKGROUND

NOCSAE is a nonprofit corporation formed in 1969 in response to a need for a performance test standard for American Football helmets. In 1973, the NOCSAE Football Helmet Standard was developed, and helmets have been tested to this standard since 1974.

Since 1974, NOCSAE has developed standards and testing methods for a range of sporting equipment.

The board of directors for NOCSAE includes representatives from the American College Health Association, American Orthopaedic Society for Sports Medicine, Athletic Equipment Managers' Association, National Association of Secondary School Principals, National Athletic Equipment Reconditioners' Association, National Athletic Trainers Association, American College of Sports Medicine, Sporting Goods Manufacturers' Association, and the College Football Association.

NOCSAE has applied to register Trade Mark Application No 1282169 for the mark NOCSAE ("NOCSAE Certification Trade Mark").

The use of the NOCSAE Certification Trade Mark will be governed by the Rules set out in this document.

The Rules set out in this document relate to the use of the NOCSAE Certification Trade Mark in respect of the following goods:

Athletic equipment; protective sports helmets; sports guards; balls being sporting articles; eye protectors; gloves for sporting purposes; sporting equipment

RULES

Approved Certifier

For the purposes of this document, an "Approved Certifier" is an individual or company who/which has entered into the License Agreement attached hereto as Attachment A ("the License Agreement").

Ownership

The NOCSAE Certification Trade Mark is and remains at all time the property of NOCSAE.

Use of the Trade Mark

The use of the NOCSAE Certification Trade Mark by Approved Certifiers is subject to the acceptance of the terms and conditions contained in the Licence Agreement.

Certification of the Goods

In order to certify goods, the person or entity seeking to make that certification must:

- (a) have executed the Licence Agreement;
- (b) participate in annual verification by an independent third-party laboratory;
- (c) agree to submit their laboratory and personnel to independent and ad hoc inspections;
and
- (d) account quarterly in writing for all goods certified.

If the entity seeking authority to certify is a laboratory, that laboratory must be accredited to perform such testing, and that accreditation must come from either the American Association for Laboratory Accreditation (A2LA), or an equivalent laboratory accrediting organisation.

Standards

The Approved Certifier agrees to comply with NOCSAE standards, for any goods it has chosen to certify to the appropriate NOCSAE standard.

The Approved Certifier agrees to comply with the published testing protocol and certification testing mandates contained in each NOCSAE standard.

NOCSAE may revise its standards from time to time. NOCSAE shall notify the Approved Certifier of any revisions to its standards in accordance with the terms of the License Agreement.

Failure to fulfill any Obligations

NOCSAE may, at its sole option, terminate the License Agreement under the following conditions:

- (a) The Approved Certifier fails to fulfill any of its obligations under these Rules, or the License Agreement; and
- (b) The Approved Certifier fails to remedy any such failure within thirty (30) days after written notice is sent to the Approved Certifier by NOCSAE.

On termination, the Approved Certifier shall immediately cease use of the NOCSAE Certified Trade Mark.

Dispute Resolution

If a dispute arises as to whether a particular good meets the certification requirements, it shall be resolved by an independent laboratory accredited by the A2LA (or an equivalent) testing the good in dispute. The Approved Certifier, already having an independent contract with such a laboratory, will rely upon its testing and validation reports if such disputes exist (as referred to in the attached License Agreement).

The terms of the License Agreement shall be governed in all respect by the laws of the State of Missouri, United States of America. Any disputes arising in relation to any aspect of the License Agreement shall be resolved pursuant to the laws of the State of Missouri, United States of America.

Inconsistency

If there is any inconsistency between this document and the License Agreement, the License Agreement prevails to the extent of that inconsistency.

Amendments

NOCSAE may amend the Rules, and undertakes to notify any such amendment to all those concerned.

ATTACHMENT A

MANUFACTURER'S LICENSE AGREEMENT WITH NOCSAE

THIS AGREEMENT, entered into and made in Overland Park, Kansas this * day of *, 2008 between THE NATIONAL OPERATING COMMITTEE ON STANDARDS FOR ATHLETIC EQUIPMENT, a non-profit Missouri corporation whose principal office is at 11020 King Street, Suite 215, Overland Park, Kansas 66210, (hereinafter referred to as "NOCSAE"), and * whose principal address is * (hereinafter referred to as "LICENSEE")

WHEREAS, NOCSAE is dedicated to the setting of standards for various items of athletic equipment for the purpose of helping reduce sports related injuries; and,

WHEREAS, NOCSAE is the lawful owner and has the right to license the use of the name "NOCSAE", the phrase "Meets NOCSAE Standards", the various sports equipment logos referenced in this agreement in Schedule A and all past, present and future trademarks of The National Operating Committee on Standards for Athletic Equipment, a non-profit corporation; and,

WHEREAS, LICENSEE desires to use various names, trademarks and phrases owned by NOCSAE which are associated with The National Operating Committee on Standards for Athletic Equipment ("NOCSAE") in connection with the manufacturing and marketing of products; and further intends and represents that it shall comply with NOCSAE standards on all equipment which it shall manufacture, distribute, or sell;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by NOCSAE and LICENSEE,

IT IS AGREED:

1. Standards. LICENSEE agrees to comply with all NOCSAE standards for any products it shall manufacture and which it has chosen to certify to the appropriate NOCSAE standard, the provisions of which standards are known to LICENSEE, whether such products are made directly by LICENSEE, or by others for LICENSEE to sell or distribute, or by LICENSEE for sale by others. LICENSEE agrees that it shall have the same duties under this agreement for any certified products which bear LICENSEE'S name, whether such products are actually manufactured by others.

2. License. Upon signing this Agreement, LICENSEE thereby certifies that its newly manufactured product(s) certified as referenced in paragraph 1 above, meets and will continue to meet, during the term of this Agreement, the applicable NOCSAE standard(s), and NOCSAE shall grant LICENSEE a limited non-exclusive license to use

the name and phrase "NOCSAE" and "Meets NOCSAE Standards" and any and all certification marks NOCSAE now and hereinafter owns during the term of this Agreement ("the Licensed Property") in connection with LICENSEE'S manufacture, sale and/or marketing of its products which meet applicable NOCSAE standards, provided that LICENSEE uses the Licensed Property in the manner and configuration described on Schedule A attached hereto and made a part of this Agreement.

3. Authorized Use. In order to protect the goodwill of NOCSAE, LICENSEE shall submit in advance of use of the Licensed Property, a detailed schedule of proposed advertising and other uses of the Licensed Property for review, and approval or disapproval by NOCSAE, which approval shall not be withheld unreasonably. **THE USE OF ANY PHRASE WHICH SUGGESTS OR STATES THAT A PRODUCT IS APPROVED BY NOCSAE OR CERTIFIED BY NOCSAE IS PROHIBITED. NOCSAE does not certify or approve any products.**

4. Product List. LICENSEE shall submit annually to NOCSAE a list of all its products by name, model number or style, which are subject to this agreement, and to which a Licensed Property is attached or affixed, and shall at the same time submit a written statement that such products offered for sale are currently in compliance with each applicable NOCSAE standard.

5. Notification of Revised Standard. Not less than six (6) months preceding any and all revisions of any NOCSAE standard, NOCSAE shall notify LICENSEE in writing of the specific revisions in such standard and the effective date for the revision. No revision shall be made more frequently than once every twelve (12) months. Such notice may be made by electronic means if appropriate delivery verification is available.

6. Effect of Revised Standard. As of the effective date of any revised standard, LICENSEE shall discontinue the use of NOCSAE'S Licensed Property on a product which does not meet the revised standard, save for application to products already manufactured or in the process of manufacture. In no event, shall LICENSEE sell a product that does not meet the revised standard bearing the NOCSAE Licensed Property or use the Licensed Property in its advertising more than three (3) months after the effective date of the revised standard.

7. Advertising. The following shall apply to any advertising using the Licensed Property.

(a) No reference shall be made in advertisement of products of the same type which do not meet an applicable NOCSAE standard unless the advertisement currently distinguishes those which do meet the standard from those which do not.

(b) Unless every product of a type to which a NOCSAE standard applies meets the applicable standard, the advertisement may not suggest or imply that the Licensed Property applies to any other than specifically identified products.

(c) The use of the phrase "NOCSAE Approved" or "NOCSAE Certified" or any similar phrase which implies that NOCSAE has approved or certified any product shall be prohibited, and LICENSEE shall take all steps to prevent the use of such prohibited language in any of its advertising or in the advertising by any third parties, whether on-line or in catalogs. LICENSEE understands that NOCSAE does not certify or approve equipment, and that such certification is made by LICENSEE.

8. Royalty Fee. LICENSEE shall pay NOCSAE within forty-five (45) days after the end of each calendar quarter, beginning with the first calendar quarter ending after the execution of this Agreement, a royalty fee as listed on Schedule B attached hereto and made a part of this Agreement for each unit of product sold, less returns, during the previous calendar quarter which bears a Licensed Property on the product itself or on its packaging. This royalty fee shall be remitted to NOCSAE at:

NOCSAE
P.O. Box 410304
Kansas City, Missouri 64141-10304

9. Quarterly Statements by Licensee. With each payment of the royalty, LICENSEE shall submit to NOCSAE a quarterly statement containing the number of units sold, less returns, for each product model or packaging bearing a Licensed Property.

10. Accounting. For good cause, LICENSEE agrees that it shall allow NOCSAE to conduct an accounting by a third party to verify the accuracy of the royalty information submitted to NOCSAE, including but not limited to verification of the number of units sold or distributed, and the identification of any re-brands or imported product.

11. Confidentiality. NOCSAE shall not divulge any information concerning LICENSEE'S sales or any other information NOCSAE may obtain through LICENSEE submissions or otherwise under the terms of this Agreement, except as may be reasonably necessary to its attorney, accountant, or as may be required by law. NOCSAE shall maintain a strict record retention program. If NOCSAE breaches its obligation and responsibilities in this paragraph, the LICENSEE may elect to immediately terminate this Agreement upon thirty (30) days written notice to NOCSAE. This confidentiality agreement shall also require that the Executive Director maintain the confidentiality of this information by not sharing it with any Board members, without written consent from the LICENSEE.

12. Term. This Agreement shall be effective on the date above written, and shall continue in effect unless terminated pursuant to paragraph 13, provided, however, that both NOCSAE and LICENSEE shall be permitted independently to terminate this Agreement on December 31st, 2008, and each subsequent December 31st thereafter, providing the terminating party gives written notice of such termination on or before December 1st preceding such actual termination date.

13. Termination for Cause. In the event of the failure of LICENSEE to fulfill any of its obligations under this Agreement, including without limitation, the use of the Licensed Property in connection with product(s), meeting the applicable NOCSAE standard, the payment of royalties when due, the furnishing of periodically required information, and full compliance with the terms, conditions, and limitations of the limited license provided by this Agreement, NOCSAE may at its sole option terminate the limited license granted herein and announce publicly its withdrawal, and upon notice by NOCSAE to LICENSEE of such termination, LICENSEE shall immediately cease use of NOCSAE'S Licensed Property on or in connection with the sale of its products, except with respect to products (other than products not satisfying each applicable NOCSAE standard) to which the Licensed Property has been applied before notice of termination has been given. LICENSEE shall, prior to any termination under this paragraph, be notified in writing by NOCSAE of any alleged breach and be given thirty (30) days to cure the alleged breach or such additional time as may be agreed upon between LICENSEE and NOCSAE. The termination of this license may only be undertaken in the event LICENSEE fails to cure the alleged breach.

14. Agency. NOCSAE and LICENSEE agree that this Agreement is not intended to create an agency relationship of any kind; and both agree not to contract any obligations in the name of the other, to use each other's credit in conducting any activities under this Agreement, or to represent that NOCSAE is in the business of reconditioning, manufacturing or selling any products.

15. Waiver. Either party's waiver of, or failure to exercise, any right provided for in this Agreement shall not be deemed a waiver of any further or future right under this Agreement.

16. Successors and Assigns. This Agreement shall be binding on the parties, and on their successors and assigns. Neither party, however, may assign this Agreement or the rights or obligations under it without the prior written consent of the other party.

17. Notices. Notices required by this Agreement shall be in writing and shall be delivered either by personal delivery or by mail. If delivered by mail, notices shall be sent by Express Mail; or by certified or registered mail, return receipt requested; with all postage and charges prepaid. All notices and other written communications under this Agreement shall be addressed as indicated below, or as specific by subsequent written notice delivered by the party whose address has changes.

IF TO NOCSAE:

NOCSAE
 c/o Michael Oliver
 11020 King Street, Suite 215
 Overland Park, KS 66210

IF TO LICENSEE:

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18. **Indemnification and Hold Harmless:** LICENSEE agrees to indemnify and hold NOCSAE harmless from any claims for bodily injury, including attorney's fees and costs of defense arising out of the use of any of its products containing the NOCSAE logo, seal or manufacturer's certification.

19. **Governing Law.** This Agreement shall be governed in all respects by the laws of the State of Missouri applicable to contracts made and to be wholly performed in that state.

20. **Captions.** The captions of each paragraph of this Agreement are inserted solely for the reader's convenience, and are not to be construed as part of the Agreement.

21. **Severability.** If any provision in this Agreement is determined by a competent authority to be unenforceable, all other provisions of this Agreement shall continue in full force and effect.

22. **Amendment.** This Agreement constitutes the entire Agreement between the parties, and supersedes all prior writings or oral agreements. This Agreement may be amended only by a writing clearly setting forth the amendments and signed by the party against who enforcement is sought.

23. **Warranty.** Each party warrants that individual signing this Agreement on its behalf is duly authorized to do so.

IN WITNESS WHEREOF each party hereto has caused this Agreement to be executed by its duly authorized agent.

THE NATIONAL OPERATING COMMITTEE ON STANDARDS FOR ATHLETIC EQUIPMENT

BY: _____

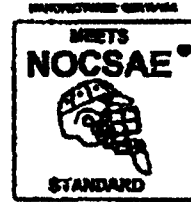
LICENSEE ATTEST

BY: _____
(LICENSEE)

Print Name _____

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SCHEDULE A



SPECIMAN

SCHEDULE B

ROYALTY FEE SCHEDULE

New Football Helmets (All Sizes and Models)	\$ 0.50 / Unit
Reconditioned Helmets (All kinds, styles, and models)	\$ 0.10 / Unit
All Helmet Faceguards	\$ 0.10 / Unit
Baseball/Softball Batters Helmets	\$ 0.20 / Unit
Catchers Helmets / Combos	\$ 0.50 / Unit
Lacrosse Helmets	\$ 0.50 / Unit
Baseballs and Softballs	\$ 0.50 / Piece
Polo Helmets	\$ 1.50 / Unit
Ice Hockey Helmets	\$ 0.50 / Unit
Soccer Shinguards	\$ 0.05 / Pair

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