

## EXHIBIT Z

to the Declaration of Ryan Hilbert  
in Support of Plaintiffs' Opposition to  
Defendants' Motion for Summary Judgment

## LICENSE AGREEMENT

This Agreement is made and entered into this 23<sup>rd</sup> day of January, 2004 by and between Fanball Interactive, LLC d/b/a Fanball.com with offices at 212 3<sup>rd</sup> Avenue, North, Suite 586, Minneapolis, MN 55401 (hereinafter "Licensee"), and NATIONAL FOOTBALL LEAGUE PLAYERS INCORPORATED, a corporation with offices at 2021 L Street, N.W., Washington, D.C. 20036 (hereinafter "PLAYERS INC" or "Licensor"). This Agreement shall be effective as of March 1, 2003.

### 1. REPRESENTATIONS.

(A) PLAYERS INC represents that it is a licensing affiliate of the National Football League Players Association ("NFLPA"); that the NFLPA has been duly appointed and is acting on behalf of the football players of the National Football League who have entered into a Group Licensing Authorization, either in the form attached hereto as Attachment "A" or through the assignment contained in Paragraph 4(b) of the NFL Player Contract, which have been assigned to PLAYERS INC; and that in such capacity PLAYERS INC has the right to negotiate this contract and the right to grant rights and licenses described herein. Licensee acknowledges that PLAYERS INC also on occasion secures authorization for inclusion in PLAYERS INC licensing programs from players, including but not limited to retired players, who have not entered into such Group Licensing Authorization, but who, nevertheless, authorize PLAYERS INC to represent such players for designated PLAYERS INC licensed programs.

(B) PLAYERS INC makes no representation that it has the authority to grant, nor does it grant herein, the right to utilize any symbols, insignias, logos, or other identifying names or marks of the National Football League (hereinafter "NFL") and/or any of its member clubs. Accordingly, it is understood by the parties hereto that if likenesses of players are to be used by Licensee in conjunction with any symbols, insignia, or logos of the NFL or any of its member clubs, in the exercise of the License granted hereunder, it will be the responsibility of Licensee to obtain such permission as may be necessary for the use of such material from the NFL or the club(s) in question. Licensor retains all rights not expressly and exclusively granted to Licensee hereunder.

### 2. GRANT OF LICENSE.

(A) Upon the terms and conditions hereinafter set forth, PLAYERS INC hereby grants to Licensee and Licensee hereby accepts the non-exclusive right, license and privilege of utilizing the trademarks and names of PLAYERS INC which may be amended from time to time by PLAYERS INC and the names, likenesses (including, without limitation, numbers), pictures, photographs, voices, facsimile signatures and/or biographical information (hereinafter "identity") of the NFL players referenced in Paragraph 1(A) above, for product(s) in the form of a fantasy football game distributed over the internet or by other electronic means (hereinafter referred to as "the licensed product(s)"). Provided, however, that the specific manner in which the rights licensed hereunder are to be used in the creation, distribution and promotion of the licensed product(s) in question shall require the prior written consent of PLAYERS INC.

(B) The rights, licenses and privileges granted by PLAYERS INC hereunder shall not constitute or be used by Licensee as a testimonial or an endorsement of any product, service, or event by all or any of the players, or by PLAYERS INC. In the event Licensee is interested in securing an individual player's personal endorsement, Licensee further agrees and acknowledges that such endorsement will require the personal approval of the individual player and approval of PLAYERS INC and a separate payment to PLAYERS INC. All contact with such player or player's agent shall be made by PLAYERS INC. Licensee further agrees and acknowledges that any player who is committed individually by contract for products or services competitive with those of Licensee may be required to cease from further inclusion in this Agreement, provided, however, that the use of such player for such products and services shall be on an individual basis and shall not be combined with the use of five or more other NFL players.

(C) PLAYERS INC grants Licensee a limited right to sublicense to third parties ("Sublicensee"), the rights granted in 2(A) above ("Sublicense Agreement(s)") provided, however, that any such Sublicense Agreement shall require PLAYERS INC's prior written approval. Licensee agrees to pay PLAYERS INC the additional royalty payment set forth in Section 6 below for each Sublicense Agreement. Licensee may enter a maximum of five (5) Sublicense Agreements. Licensee agrees that each Sublicense Agreement shall be in accordance with and governed by the terms of this License Agreement and that, accordingly, Licensee shall compel Sublicensee to abide by the rights and obligations contained hereunder.

3. **PREMIUM/GIVEAWAY RESTRICTION.** The Grant of License set forth in Paragraph 2 of this Agreement applies only to the creation, marketing, promotion and distribution of the licensed product(s) and the sale of such advertising and promotional rights directly on Licensee's fantasy football property discussed in Paragraph 2 hereof as an element of licensed product(s), and except as described above in this sentence shall not permit the use of licensed products as a "premium item" or "give-away" to be included with products, services or events; provided, however that Licensee shall be permitted to promote the sale of Licensed product(s), subject to prior written approval by PLAYERS INC and in a manner consistent with the provisions of the Agreement. Any such promotion using the licensed product(s) herein as premium items shall require a separate agreement between PLAYERS INC and Licensee or other sponsor of the promotion, with separate terms and conditions, and nothing contained herein shall obligate either PLAYERS INC or Licensee to enter into such an agreement.

4. **TERRITORY.** Licensee shall have the right to utilize the rights granted hereunder for distribution of the licensed product(s) in the following territory: Worldwide.

5. **TERM.**

(A) The term of this Agreement shall extend from March 1, 2003 to February 29, 2004 (hereinafter referred to as the Original License Period) unless terminated in accordance with the provisions hereof. Licensee may renew this Agreement for a Second License Period from March 1, 2004 to February 28, 2005, provided Licensee has faithfully fulfilled its obligations hereunder in the Original License Period. Notice of desire to renew shall be given by Licensee no later than January 15 in the Original License Period. Licensee may renew this Agreement for

a Third License Period from March 1, 2005 to February 28, 2006, provided Licensee has faithfully fulfilled its obligations hereunder in the Second License Period. Notice of desire to renew shall be given by Licensee no later than January 15 in the Second License Period.

(B) Licensee acknowledges and agrees that Licensee has and shall have no right to extend or renew this Agreement beyond the term and renewal options, if any, stated herein. No conduct by either Licensor or Licensee (including without limitation, any approvals granted pursuant to Paragraph 12 hereof) shall create, imply or infer a new license agreement or an extension of the stated term and renewal options, if any, of this Agreement, unless same is specifically set forth in a written agreement signed by both Licensor and Licensee. Licensee's agreement that this Agreement is subject to the term and renewal options, if any, stated herein, in all events whatsoever, is a material inducement for Licensor to enter into this Agreement.

## 6. ROYALTY PAYMENT.

(A) Licensee agrees to pay PLAYERS INC a guaranteed royalty of \$25,000 for its use of the rights licensed hereunder for the Second License Period, if applicable, and a guaranteed royalty of \$25,000 for the Third License Period, if applicable. The guaranteed royalty shall be paid as follows:

(i) For the Second License Period, if applicable, \$12,500 on or before July 1, 2004 and \$12,500 on or before September 1, 2004.

(ii) For the Third License Period, if applicable, \$12,500 on or before July 1, 2005 and \$12,500 on or before September 1, 2005.

(B) Such guaranteed royalty payments shall be made by Licensee as specified hereinabove whether or not Licensee uses the rights licensed hereunder, and no part of such guaranteed payments shall be repayable to Licensee.

(C) Licensee shall also pay to PLAYERS INC a royalty amount equal to Seven and one Half Percent (7.5%) (plus a minimum \$5,000 guaranteed royalty for each Sublicensee and Five Percent (5%) of all revenue, above and beyond such minimum, attributable to use by each Sublicensee) of all revenue attributable to use by Licensee of the rights licensed hereunder, including without limitation subscription, transaction fees, advertising, and sponsorship, less the guaranteed payments specified above for the applicable License Period. In addition, if Licensee offers any fantasy football game(s) to its users at no charge, then, for each such game, Licensee shall pay to PLAYERS INC a royalty in the amount of Seven Cents (\$.07) per individual registered user during the applicable license period; provided, however, that if the sum of such \$.07 per user fee plus royalties generated from sponsorship and/or transaction fees (such as player trades) for such game(s) is less than the amount that would be paid to PLAYERS INC if Licensee paid a ten cent (\$.10) per user fee only, the difference shall be paid to PLAYERS INC. Such royalties shall be offset against guarantee payments specified above for the applicable license period; provided, however, such royalties per individual user shall not be offset against any royalties from all revenue attributable to use by Licensee of the rights licensed hereunder.

Royalties shall be calculated on a quarterly basis and shall be due as of the last day of each May, August, November, and February of this Agreement and must be paid no later than fifteen (15) days following such due dates. For the Original License Period only, no royalties shall be due with regard to (1) Licensee's "Commissioner" product and (2) Licensee's games which are offered to users at no charge. In addition, for the Original License Period only, royalties for the first three quarters shall be due upon execution of this Agreement or January 31, 2004, whichever is earlier. Licensee shall not design access to and from any fantasy football game licensed hereunder in such a manner that the effect of such access is to reduce payments to PLAYERS INC hereunder.

(D) Licensee agrees to distribute to its users, on behalf of PLAYERS INC, up to two (2) promotional emails per License Period (no more than one (1) per calendar month). Such promotional emails shall be provided by PLAYERS INC and subject to Licensee's reasonable approval and shall promote PLAYERS INC licensees, sponsors, partners, or branded programs, properties, or events, excluding any companies and/or products competitive with Licensee unless approved by Licensee.

## 7. PERIODIC STATEMENTS.

(A) Licensee shall furnish to PLAYERS INC, in a form provided by PLAYERS INC, no later than fifteen (15) days following the last day of each May, August, November, and February of this Agreement, a complete and accurate statement certified to be accurate by an authorized representative of Licensee, showing the quantity, description and gross purchase price, of the licensed product(s) distributed by Licensee during the preceding quarterly reporting period described in Paragraph 6(C) herein. For the Original License Period only, such statements for the first three quarters shall be due with the statement for the fourth quarter. Once in every twelve-month period, Licensee shall furnish PLAYERS INC with a detailed statement certified by an officer of Licensee, showing the number of gross sales of the licensed product(s) covered by this Agreement.

(B) Such statements shall be furnished to PLAYERS INC whether or not any of the licensed product(s) have been purchased during the reporting period for which such statement is due. The receipt or acceptance by PLAYERS INC of any statement or of any royalty paid hereunder (or the cashing of any royalty check paid hereunder) shall not preclude PLAYERS INC from questioning the correctness thereof at any time, and in the event any inconsistencies or mistakes are discovered in connection therewith, they shall immediately be rectified and the appropriate payment made by the appropriate party.

## 8. BOOKS AND RECORDS.

(A) For a period of two (2) years following the termination or expiration of this Agreement, Licensee shall maintain accurate books and records for itself and any subsidiary or affiliated entity with respect to its sale of licensed product(s) under this Agreement. Said books and records shall be subject to inspection and audit by PLAYERS INC or its duly authorized representative at reasonable times upon reasonable notice from PLAYERS INC to Licensee. In addition and similarly, Licensee shall use commercially reasonable efforts to cause any entity

from which it contracts for services or production of product to cause its books and records to be available for audit and inspection by PLAYERS INC to the extent necessary to confirm the audit of Licensee. Licensee shall not interfere with such inspections and audits in any way.

(B) The reasonable cost of such inspections and audits shall be paid by Licensee if the result of such inspections and audits indicates a difference of 3% or more, when compared to the statement certified to be accurate by an officer of Licensee, as required by Paragraph 7 (A) of this Agreement, for the twelve month period covered by such statement, or the cost of such inspections and audits as the result of an inspection or audit performed by PLAYERS INC as specified in Paragraph 8(A) above shall be paid by PLAYERS INC if such difference is less than 3%.

(C) In the event of any inconsistencies or mistakes are discovered as a result of such inspections and audits, they shall immediately be rectified and the appropriate payment made by the appropriate party.

9. PAYMENT, INTEREST AND NOTICES. All transactions under this Agreement, including without limitation all payment of royalties and all other payments, and all notices, reports, statements, approvals and other communications, shall be with or made payable in the name of NATIONAL FOOTBALL LEAGUE PLAYERS INCORPORATED, 2021 L Street, N.W., Washington, D.C. 20036, or its assignee where applicable. With regard to all guaranteed royalty and actual royalty payments only, such payments shall be made by wire transfer in accordance with Attachment "B" hereto. All other payments shall be made directly to PLAYERS INC at the address above. In addition to all other rights contained in this Agreement, PLAYERS INC shall be entitled to collect and Licensee shall pay daily interest at the rate of one and one-half percent (1 1/2%) monthly, or the maximum interest permitted by law if less, on all payments not timely made by Licensee. All correspondence, notices, approvals and other communications to Licensee shall be with 212 3<sup>rd</sup> Avenue, North, Suite 586, Minneapolis, MN 55401, Attention: Rob Phythian.

#### 10. INDEMNIFICATION.

(A) Licensee agrees that it will not during the term of this Agreement, or thereafter, attack the rights of PLAYERS INC in and to the trademarks or names owned by or licensed to PLAYERS INC or any of the rights licensed hereunder as specified in Paragraph 2 of this Agreement.

(B) Licensee further agrees to assist PLAYERS INC to the extent necessary, in the procurement of any protection or to protect any of the rights conveyed hereunder, and PLAYERS INC, if it so desires, may commence or prosecute at its own expense any claims or suits in its own name or in the name of Licensee or join Licensee as a party thereto. Licensee shall notify PLAYERS INC in writing of any infringement by others of the rights covered by this Agreement that may come to Licensee's attention, and PLAYERS INC shall have the sole right to determine whether or not any action shall be taken on account of any such infringement. Licensee shall not institute any suit or take any action on account of any such infringement without first

obtaining the written consent of PLAYERS INC to do so and PLAYERS INC shall reasonably consider any such request.

(C) Licensee for its own acts hereby indemnifies PLAYERS INC and undertakes to defend PLAYERS INC from and against any and all claims, suits, losses, damages, and expenses (including reasonable attorney's fees and expenses) arising out of the manufacture, marketing, sale, distribution, or use of the licensed product(s) which are the subject of this Agreement. Licensee agrees to obtain, at its own expense, general liability insurance, providing adequate protection for Licensee and PLAYERS INC against any such claims or suits in amounts not less than Three Million Dollars (\$3,000,000.00). Within thirty (30) days from the date hereof, Licensee shall submit to PLAYERS INC a fully paid policy or certificate of insurance naming PLAYERS INC as an insured party, requiring that insurer will not terminate or materially modify such without written notice to PLAYERS INC at least twenty (20) days in advance thereof.

(D) PLAYERS INC hereby indemnifies Licensee and undertakes to defend Licensee against, and hold Licensee harmless from any liabilities, losses, damages, and expenses (including reasonable attorney's fees and expenses) resulting from claims made or suits brought against Licensee based upon the use by Licensee of the rights licensed in Paragraph 2 strictly as authorized in this Agreement.

#### 11. COPYRIGHT AND TRADEMARK NOTICES.

(A) Licensee shall prominently place or cause to be placed Licensor's "PLAYERS INC (and design)" trademark (hereinafter "Licensor's Trademark") on the licensed products and on any advertising (both print and media regardless of medium, e.g., broadcast, Internet, etc.), and any other promotional material, including trade show booths and exhibits, sales catalogues, and other sales/marketing materials in connection with such licensed product(s) that are publicly distributed or relating to such licensed product(s).

(B) Licensor's Trademark appearing on the licensed product(s) and on all materials in connection with the licensed product(s) distributed or relating to such licensed product(s), shall appear precisely according to the specifications set forth in Appendix B attached hereto, which may be amended from time to time by Licensor, without variation, with the letter "R" enclosed within a circle. Further, Licensee shall provide to Licensor the date of the first use of such licensed product(s) bearing Licensor's Trademark in intrastate and interstate commerce.

(C) Additionally, Licensee shall imprint or cause to be imprinted the following text on any such licensed product(s) and/or materials therefor:

"Officially Licensed Product of  
PLAYERS INC"

and

“visit NFLPLAYERS.COM”

The specific text imprinted shall be subject to Licensor's sole discretion.

(D) For any licensed product, Licensee shall also prominently place the PLAYERS INC logo on the home page of the fantasy football game, and on any other web page within such game utilizing the rights licensed hereunder. Unless otherwise agreed, the placement of the logo shall be in the upper section of the page, immediately visible on any fantasy football page. The logo on the home page shall contain the PLAYERS INC URL as follows: NFLPLAYERS.COM and shall serve as a hyperlink to the PLAYERS INC website at www.nflplayers.com. In addition, Licensee shall prominently place a PLAYERS INC “content box” on Licensee’s web pages used to market the licensed product(s). “Content boxes” shall be defined as editorial, sweepstakes or other promotional content designed and developed by PLAYERS INC.

## 12. APPROVALS.

(A) The list of players for whom PLAYERS INC has group licensing authorization (the “Player Agreement Report”) is available to Licensee via the Internet at www.nflplayers.com/licensee with Licensee’s “user name” and “password.” In addition, PLAYERS INC may secure authorization from players not listed on the Player Agreement Report, including but not limited to retired players. Notwithstanding the foregoing:

(i) Annually by June 1 of each calendar year covered by this Agreement (except upon execution of this Agreement for 2003 only), Licensee shall submit to PLAYERS INC a proposed list of players’ names for inclusion in the licensed product(s) for the upcoming football season. Licensee shall cross-reference its player list against the current Player Agreement Report. After cross-referencing the lists, Licensee must submit its proposed final player list to PLAYERS INC for approval.

(ii) PLAYERS INC shall respond to such submissions in writing to Licensee, signifying approval or disapproval in the case of each player's name so requested.

(iii) Licensee may submit requests in writing to PLAYERS INC for additions, deletions, or substitutions of players' names and PLAYERS INC shall respond to such requests within a reasonable period of time.

(B) The Licensee agrees to furnish PLAYERS INC free of cost for its written approval as to quality and style a mock up of representative web pages of each licensed product(s) prior to the commercial launch of such licensed product(s). No licensed product(s) shall be sold or distributed by the Licensee without such prior written approval. No later than two weeks prior to the first NFL regular season game of the applicable License Period (except upon execution of this Agreement for the Original License Period only), Licensee will provide PLAYERS INC with five (5) accounts for PLAYERS INC’s internal use including, but not limited to, monitoring the public version of the licensed product(s) to ensure Licensee’s compliance with its obligations herein.

(C) Licensee may choose to use player names and/or likenesses to promote licensed product(s) on or in radio or television commercials, any material pertaining to packaging, hangtags, wrapping material, print ads, flyers, point-of-purchase displays, press releases, catalogues, trade show booths and exhibits, sales catalogues and other sales/marketing materials, or any other written material or medium, including but not limited to electronic or interactive use; provided, however, that such use shall require the prior written approval of PLAYERS INC and may require additional payment to PLAYERS INC separate from and in addition to any guarantees or royalty payments contained in this Agreement. The amount of such payment, if any at PLAYERS INC's sole discretion, shall be subject to mutual agreement by PLAYERS INC and Licensee. All contacts with such players or their agents shall be made by PLAYERS INC. Licensee agrees to furnish PLAYERS INC all scripts and story boards for proposed commercials for any medium in connection with the promotion of the licensed product(s), and the content of such scripts and story boards shall require the prior written approval of PLAYERS INC before any commercials shall be made or shall be contracted for by Licensee.

(D) In the event Licensee wishes to secure an individual player or players to make appearances to promote licensed product(s) or to autograph licensed product(s), the selection of such player and the separate fee to PLAYERS INC for such player services shall be subject to mutual agreement between Licensee and PLAYERS INC. All contact with requested player or his agents shall be made by PLAYERS INC. Once the player has made the appearance or performed the autograph service, payment shall be made immediately to PLAYERS INC. Any such payments shall be separate from and in addition to any royalties paid by Licensee under this Agreement. Once the selection of such player and such separate fee have been agreed upon by Licensee and PLAYERS INC, in the event of cancellation of such appearance or autographing (other than by player or PLAYERS INC), Licensee shall nevertheless be obligated to make such fee payment to PLAYERS INC immediately upon such cancellation.

13. NON-INTERFERENCE. Licensee agrees and acknowledges that, during the term of this Agreement, it shall not secure or seek to secure, directly from any player, who is under contract to an NFL club, is seeking to become under contract to an NFL club, or at any time in the past was under contract to an NFL club, or from such player's agent, permission or authorization for the use of such player's name, facsimile signature, image, likeness, photograph or biography in conjunction with the licensed product(s) herein.

#### 14. GOODWILL.

(A) Licensee recognizes the goodwill associated with the rights licensed in Paragraph 2 of this Agreement and acknowledges that such goodwill belongs exclusively to PLAYERS INC and that said trademarks, names and rights licensed in Paragraph 2 of this Agreement have acquired secondary meaning in the mind of the public.

(B) Licensee agrees that all elements (including all material of any nature utilizing in any way the rights licensed hereunder, including but not by way of limitation, all packages, cartons, point of sale material, newspaper and magazine advertisements) of the licensed product(s) shall

be of high standard and of such style, appearance and quality as to be adequate and suited to the best advantage and to the protection and enhancements of such rights; that the marketing of the licensed product(s) will be conducted in accordance with all applicable federal, state and local laws and any other governmental or quasi-governmental laws or regulations of the United States, Canada or any other country; and that the licensed product(s) and their exploitation shall be of high standard and to the best advantage and that the same in no manner reflect adversely upon the good name of PLAYERS INC.

15. SPECIFIC UNDERTAKINGS OF LICENSEE.

(A) Licensee agrees that every use of the rights licensed hereunder by Licensee shall inure to the benefit of PLAYERS INC and that Licensee shall not at any time acquire any title or interest in such rights by virtue of any use Licensee may make of such rights hereunder.

(B) All rights relating to the rights licensed hereunder are specifically reserved by PLAYERS INC except for the License herein granted to Licensee to use the rights as specifically and expressly provided in this Agreement.

(C) Upon expiration or termination of this Agreement, all rights granted hereunder shall immediately revert to PLAYERS INC, and Licensee will refrain from further use of such rights or any further reference thereto, direct or indirect, except as provided in Paragraph 16(E) below. Licensee acknowledges that its failure to cease the use of such rights at the termination or expiration of this Agreement will result in immediate and irreparable damage to Licensor, and/or individual National Football League player(s), and to the rights of any subsequent licensee(s).

(D) On a quarterly basis Licensee shall provide to PLAYERS INC a count by month of the number of users of the licensed product.

(E) Licensee agrees to spend the following total amounts on activities which stimulate and promote the market for licensed product(s) through player appearances, highlighting, autographing, or endorsements, and/or PLAYERS INC branded programs, properties, or events (hereinafter "marketing payments"), subject to prior written approval by PLAYERS INC of such activities:

**\$10,000, during the Second License Period, if applicable, and**

**\$10,000, during the Third License Period, if applicable.**

Such activities shall not include standard and customary industry trade advertising and sales materials. Licensee shall provide documentation that such approved expenditures have been made. The expenditure documentation shall be provided on a quarterly basis and shall be certified by an authorized representative of Licensee. Such documentation shall be subject to inspection and audit by PLAYERS INC on the same basis as Licensee's books and records.

If, at the end of each annual period or license periods covered by this Agreement, Licensee has not spent the required amount for such period specified above in this Paragraph 15(E), then Licensee shall pay to PLAYERS INC no later than the last day of such period an amount equal to the difference between the amount specified in this Paragraph 15(E) for such period and the amount actually spent by Licensee during such period on approved activities.

(F) Licensee covenants that it will pay all awards to consumers entitled to receive them according to the representations of Licensee and the rules of the licensed product(s).

## 16. TERMINATION BY PLAYERS INC

(A) In the event Licensee does not commence in good faith to launch the distribution and sale of the licensed product(s) on or before August 1, PLAYERS INC, in addition to all other remedies available to it shall have the option to terminate the License granted hereunder upon written notice of such termination to Licensee.

(B) In the event Licensee files a petition in bankruptcy or is adjudicated as bankrupt, or if a petition in bankruptcy is filed against Licensee or if Licensee becomes insolvent, or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy laws, or if Licensee discontinues its business, or if a receiver is appointed for it or its business, all rights granted hereunder, without notice, shall terminate automatically upon the occurrence of any such event. In the event of such termination, neither Licensee nor its receivers, representatives, trustees, agents, administrators, successors, and/or assigns shall have any right to sell, exploit or in any way deal with the rights granted hereunder or with any licensed product(s), or any carton, container, packaging or wrapping material, advertising, promotional or display material pertaining to any licensed product(s).

(C) If Licensee shall violate any of its other obligations under the terms of this Agreement, PLAYERS INC shall have the right to terminate this Agreement upon fifteen (15) days' notice in writing, and such notice of termination shall become effective unless Licensee shall completely remedy the violation within the fifteen (15) day period and shall provide reasonable proof to PLAYERS INC that such violation has been remedied. If this Agreement is terminated under this paragraph, all royalties theretofore accrued shall become due and payable immediately to PLAYERS INC, and PLAYERS INC shall not be obligated to reimburse Licensee for any royalties paid by Licensee to PLAYERS INC.

(D) Failure to resort to any remedies referred to herein shall not be construed as a waiver of any other rights and remedies to which PLAYERS INC is entitled under this Agreement or otherwise.

(E) Upon termination of this Agreement, Licensee shall have ninety (90) days to dispose of and liquidate all inventory. This inventory shall not be available to consumers after this ninety (90) day period expires. Such disposition shall conform to this Agreement in all respects. PLAYERS INC shall have right to conduct a physical inventory at the time of termination if it so elects.

17. PARTNERSHIP. Nothing herein contained shall be construed to place PLAYERS INC and Licensee in the relationship of partners or joint venturers, and Licensee shall have no power to obligate or bind PLAYERS INC in any manner whatsoever.

18. WAIVER AND/OR MODIFICATION. None of the terms of this Agreement shall be waived or modified except by an express agreement in writing signed by both parties. There are no representations, promises, warranties, covenants or undertakings other than those contained in this Agreement, which represents the entire understanding of the parties. No written waiver shall excuse the performance of an act other than those specified therein. The failure of either party hereto to enforce, or delay by either party in enforcing any of its rights under this Agreement shall not be deemed a continuing waiver or modification thereof and either party may, within the time provided by applicable law, commence appropriate legal proceedings(s) to enforce any or all of such rights.

19. NON-ASSIGNABILITY. This Agreement and all rights and duties hereunder are personal to Licensee and shall not, without written consent of PLAYERS INC, be assigned, mortgaged, sublicensed or otherwise encumbered by Licensee or by operation of law to any other person, or entity. Such other encumbrance shall include, without limitation, distribution agreements, cobranding agreements, or agreements to provide a fantasy football software engine utilizing the trademarks and names of PLAYERS INC or the identity of any NFL player listed in the Player Agreement Report, with any other person or entity. Upon any such attempted unapproved assignment, mortgage, license, sublicense or other encumbrance, this Agreement shall terminate and all rights granted to Licensee hereunder shall immediately revert to PLAYERS INC. In addition, PLAYERS INC may terminate this Agreement, at its sole discretion, in the event that Licensee is merged, consolidated, transfers all or substantially all of its assets, or implements or suffers any material change in executive management or control, or upon any transfer of more than twenty-five percent (25%) of its voting control. If, in its sole discretion, PLAYERS INC shall exercise such termination, all rights granted to Licensee hereunder shall immediately revert to PLAYERS INC.

[signature page to follow]

20. CONSTRUCTION. This Agreement shall be governed by, and shall be construed in accordance with the laws of the State of New York of the United States of America. The parties consent to jurisdiction under the State of New York and designate the courts of the State of New York as the venue for any dispute arising out of, under or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the day and date written first above.

The Foregoing is Acknowledged:

NATIONAL FOOTBALL LEAGUE  
PLAYERS INCORPORATED

By: *Douglas F. Allen*

Title: *President*

FANBALL INTERACTIVE, LLC

By: *RA P. [Signature]*

Title: *President*