

PATENT LICENSE AGREEMENT

THIS PATENT LICENSE AGREEMENT (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between Crumb Rubber Granulator, LLC., a Pennsylvania Limited Liability Company with a principal place of business at (Call 717 575-9007 for address) \_\_\_\_\_ (the "Licensor") and \_\_\_\_\_, a \_\_\_\_\_ with a principal place of business at \_\_\_\_\_ (the "Licensee").

Effective Date. (If different than the date hereof): \_\_\_\_\_.

Background. Licensor is the holder, via assignment from the inventors, (Call 717 575-9007 for a list of the inventors) \_\_\_\_\_, of the U.S. Patent Number (Call 717 575-9007 for patent number) \_\_\_\_\_, on a "Tire Rubber Granulator" (the "Patent") that, among other things, reduces scrap tire rubber into smaller particles of various sizes. Licensor desires to grant to Licensee and Licensee desires to accept a non-exclusive license of the Patent for the building of, and use of, machines incorporating the Patent's technology under the terms and conditions described below.

NOW, THEREFORE, in consideration of mutual promises, covenants and undertakings contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Licensor and Licensee hereby agree as follows:

1. Rights Granted. Effective as of the Effective Date, Licensor hereby grants to Licensee the non-exclusive right and license (the "License") to manufacture, build, use, lease and/or sell up to \_\_\_\_\_ machine(s) incorporating any or all of the Patent technology ("Machines"), subject to the following and the other terms and conditions of this Agreement:

(a) Machine Plate. Licensee shall permanently attach to all Machines manufactured or assembled under this License, in an easily visible location, a machine plate, provided to Licensee by Licensor, which includes information deemed relevant by Licensor. This machine plate may not be removed, nor may the relevant identifying information be covered in any way by Licensee.

(b) Limitation on Transfer. The License and other rights and obligations granted herein may not be transferred, in whole or in part, by Licensee without the prior written permission of Licensor. Each permitted transfer of the License is expressly conditioned upon the transferee entering into a License

Agreement with Licensor in a form acceptable to Licensor. The Licensee has no right to grant a sublicense under this Agreement.

(c) Non-Exclusive, Non-Territorial License. The License granted herein shall be non-exclusive and shall extend throughout the United States.

2. Ownership. Licensee agrees that the ownership of the Patent and the goodwill relating thereto, and any associated improvements, whether developed by Licensor or Licensee, or both parties jointly, shall remain vested in Licensor both during the Term of this Agreement and thereafter, and Licensee further agrees never to challenge, contest or question the validity of Licensor's ownership of the Patent or any associated registrations therewith. It is acknowledged and agreed that the Patent is protected by United States Patent Law and International Treaty provisions, as well as other intellectual property laws and treaties, to which the Licensee will comply. Licensee agrees to inform Licensor of any potential infringements of the Patent which come to Licensee's attention.

3. License Fees. As consideration for the License granted, Licensee shall pay to Licensor the following fees (the "License Fees") **[check and complete the appropriate lines]**:

- an initial License Fee of \$\_\_\_\_\_, payable upon the signing of this Agreement;
- an initial License Fee of \$\_\_\_\_\_, payable in installments as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;
- an ongoing royalty fee of \$\_\_\_\_\_per Machine manufactured or assembled under this License, payable within thirty (30) days of substantial completion of each such machine; and
- an ongoing royalty fee of \$\_\_\_\_\_per Machine sold or leased under this License, payable within thirty (30) days of agreement reached with the customer/lessee.

Upon the written request of Licensor, Licensor shall have the right to audit the books and records of Licensee to determine the accuracy of the License Fee payments. Licensee shall promptly pay to Licensor the amount of any

underpayment, if any, owed to Licensor as shown by the audit report (or by any other relevant information presented by Licensor). The cost of any audit shall be borne by Licensor, but if any such audit shows a discrepancy of at least five percent (5%) in an amount underpaid to Licensor (for any reason), Licensee shall reimburse Licensor for all costs and expenses of such audit in addition to paying Licensor the underpaid amount.

4. Term. The term of this Agreement shall be for \_\_\_\_\_ years, but under no circumstances will the Agreement extend beyond the full term of the Patent. Upon expiration or termination of this Agreement, the License rights of Licensee hereunder shall terminate and cease, Licensee shall cease all manufacturing activity utilizing the Patent, Licensee shall not be permitted to use, sell or lease any Machines in its possession without written permission from Licensor and payment in advance of the applicable License Fees, and all License Fees and other amounts due hereunder shall become immediately due and payable to Licensor. Expiration or termination of the Agreement shall not relieve Licensee of its obligations to account for, and make payments to, Licensee of all amounts owed under this Agreement.

5. Default and Termination.

(a) Licensor may terminate this Agreement at any time upon written notice to Licensee in the event that:

(i) Licensee fails to make any payment of money owed to Licensor for a period of ten (10) days after written notice of such failure from Licensor; or

(ii) Licensee defaults on any other material obligation under this Agreement, and such default is not fully cured within sixty (60) days after Licensor gives written notice of such default to Licensee.

(b) In the event that Licensor breaches or violates any term of this Agreement or there is any defect or other problem with the Patent or Machines, and Licensor fails to cure such breach or problem within sixty (60) days of written notice thereof from Licensee, then Licensee may terminate this Agreement upon written notice to Licensor.

6. Confidential Information. Prior to and during the course of performing under this Agreement, Licensee may acquire, receive or discover, confidential or proprietary information concerning the Patent, Licensor, the Machines or other equipment employing the Patent technology, and other associated products, including, without limitation, marketing and business data,

plans, methods, know-how, technical and cost information, client/customer lists, financial information, statements and data, trade secrets and proprietary rights related thereto, including intellectual property rights, and all information protected as confidential under the letter agreement between Licensor and Licensee signed in connection with Licensee's tour of the machine and the Patent prior to the date of this Agreement (collectively, "Confidential Information"). Licensee agrees to treat all Confidential Information as strictly confidential and not to disclose any Confidential Information to any third party without the prior written consent of Licensor, unless otherwise required by law. If Licensee is required by law to disclose any Confidential Information, Licensee shall, prior to such disclosure, first notify Licensor in writing of the disclosure requirement, the particular Confidential Information Licensee intends to disclose, the intended recipient and the intended date of disclosure, which shall not be less than twenty (20) days from the date of such written notice.

7. Remedies. Without prejudice to the rights and remedies otherwise available to Licensor and/or Licensee, it is understood and agreed that money damages would not be a sufficient remedy for breach of the terms and conditions of this Agreement, and that the non-breaching party shall be entitled to equitable relief by way of preliminary and/or permanent injunction or specific performance if a party breaches or threatens to breach any of the any of the provisions of this Agreement. If any provision of this Agreement is determined to be unreasonable and unenforceable, such provision shall be deemed to be modified only to the extent necessary to make it reasonable and enforceable.

8. No Warranty. LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT, THE CONFIDENTIAL INFORMATION, THE LICENSE, THE PATENT, THE ORIGINALITY THEREOF OR WHETHER THE PATENT INFRINGES ON ANY OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION. IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY DAMAGES WHATSOEVER, WHETHER FORESEEABLE OR NOT (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS, OR CONSEQUENTIAL OR SPECIAL DAMAGES), ARISING OUT OF THE USE OR PERFORMANCE OR, OR INABILITY TO USE, THE PATENT, THE LICENSE OR THE MACHINES OR ANY DAMAGES OR SETTLEMENT PAYMENTS REQUIRED OR MADE BY LICENSEE ARISING FROM THE USE OF THE PATENT, EVEN IF

LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL LICENSOR'S LIABILITY HEREUNDER, FOR ANY REASON, EXCEED THE TOTAL FEES PAID BY LICENSEE TO LICENSOR HEREUNDER DURING THE PRIOR TWELVE (12) MONTH PERIOD.

9. Inspection. Throughout the term of this Agreement, Licensee shall permit Licensor, upon reasonable prior notice, full and free access to all premises of Licensee to inspect the Machine(s) and Licensee's manufacturing thereof, and to ensure compliance with the terms and conditions of this Agreement.

10. Indemnity. Licensee hereby assumes all responsibility for and agrees to indemnify, defend and hold harmless Licensor from and against any and all damages, losses, claims, suits or other expenses whatsoever arising out of Licensee's promotion, advertising, manufacturing, assembly, use, lease or sale of goods, machinery, equipment and/or services under the Patent, under this License, or incorporating any Patent technology, including (without limitation) Licensor's reasonable attorneys' fees.

11. Miscellaneous.

(a) This Agreement constitutes the entire understanding between the parties, and no modifications or alterations thereof shall be effective unless in writing and duly executed by both Licensor and Licensee. Section headings are for ease of reference only, shall not be considered part of this Agreement and shall not limit or define the meaning of any provision. As used herein, the word "including" is intended to be exemplary and inclusive of the word or phrase it modifies, and not exclusive or limiting.

(b) This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania, notwithstanding any conflict of laws rules. Both Licensor and Licensee agree that any litigation arising under, out of, or related to this Agreement shall be brought exclusively in the state or federal courts having jurisdiction in Lancaster County, Pennsylvania, by non-jury trial, and the Licensee and the Licensor hereby irrevocably waive any right to a jury trial. The Licensee recognizes that immediate and irreparable damage will result to Licensor if the Licensee breaches any of the terms and conditions in this Agreement, and, accordingly, the Licensee hereby consent to the entry by any court of competent jurisdiction of any injunction or court order (both preliminarily and/or permanent) to restrain any such breach, in addition to any other remedies or claims for money damages which Licensor may seek. Any costs or expenses, including (without limitation) reasonable attorneys' fees, incurred by Licensor to enforce this Agreement shall be paid to Licensor by Licensee.

(c) This Agreement may be executed in any number of identical counterparts, and each such counterpart may be deemed a duplicate original hereof. This Agreement shall be binding upon and shall inure to the benefit of the successors, permitted assigns and legal representatives of Licensor and Licensee.

(d) Except as may be otherwise provided, all notices and other communications required or permitted to be given pursuant hereto shall be in writing and shall be valid and sufficient if dispatched by hand delivery or by Registered or Certified Mail, postage prepaid, and addressed to the party at the address set forth on the first page of this Agreement, or at such new address as may hereinafter be provided in writing.

(e) This Agreement does not create a partnership, agency, joint venture, employment or any other relationship other than a license. Neither Licensee nor Licensor is, and neither Licensee nor Licensor shall hold itself out as, an agent, legal representative, partner, subsidiary, joint venturer, employee, franchiser or franchisee of the other.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement on the date first written above.

LICENSOR:

WITNESS:

Crumb Rubber Granulator, LLC.

\_\_\_\_\_

By: \_\_\_\_\_  
John M. Sensenig, CFO

LICENSEE:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_