**POLICIES ON USE OF**

**THE NEGRO LEAGUES BASEBALL MUSEUM'S TRADEMARKS**

**FOR MERCHANDISING, MARKETING,**

**ADVERTISING AND PROMOTIONAL PURPOSES**

**Introduction**

The Negro Leagues Baseball Museum, Inc. ("NLBM") owns and controls the use of its logos, insignias, designs, symbols, service marks, trade dress, trade names and other trademarks, collectively called "Trademarks," that are associated with the NLBM, whether registered or not. These include, but are not necessarily limited to, the words "Negro Leagues Baseball Museum," "Discover Greatness," "Kansas City Monarchs," "Indianapolis Clowns," NLB Retro Team Logos, NLB Leagues Logos, Discover Greatness - Negro Leagues Logo, Negro Leagues - Latin Legacy Logos, or any derivations therefrom, and such other trademarks as are owned, developed and adopted from time to time by the NLBM.

In order to meet the public demand for goods and services bearing the NLBM's Trademarks, the NLBM grants exclusive and non-exclusive royalty-bearing licenses to companies to produce, market and sell such goods and services throughout the world. The administrative responsibility for the Trademark Licensing program rests with the Director of Licensing.

The purpose of this memorandum is to provide guidance as to the permissible use, as well as restrictions on the use, of the NLBM's Trademarks. This memorandum also sets forth the responsibility for granting permissions and licenses for such use.

Any staff member, board member, outside individual, commercial organization or company wishing to use the NLBM's Trademarks for commercial purposes (including fund-raising for student groups) must obtain permission to do so. All use of the NLBM's Trademarks must be done under license or permission granted by the NLBM.

Use of the NLBM's Trademarks without license or permission is strictly prohibited. Prior authorization of the use of the NLBM's Trademarks will not be construed as an authorization of use in the future, nor will any prior course of conduct, use or infringement prohibit the NLBM from enforcing any of its rights with respect to the Trademarks. The NLBM reserves the right to pursue any and all legal remedies and will take whatever measures necessary to protect its Trademarks from infringement. Any use requires prior permission except where indicated otherwise.

**Definitions**

**Trademark** generally means any word, name, symbol, device or any combination thereof which identifies the source of goods or services whether or not they are registered. In practice, a Trademark also enhances the desirability of a product and, when properly controlled, can increase the value of the product as well as the goodwill inherent in the Trademark.

For the purposes of this document, "Trademark" is used to indicate, in addition to the strict legal definition, service marks, trade names, trade dress, any trademarked words, symbol, device, trademark, logo, insignia, seal, indicia, emblem, identifying mark, mark, or any combination thereof, used to identify the source of goods or services, whether or not they are registered.

**Infringement** means any unauthorized use of a Trademark; or the use of any word, term, logo, symbol or device, or any combination thereof, or any false or misleading description or representation of facts which in connection with any goods (or any container for goods) or services is likely to cause confusion or deceive the general public as to the affiliation, connection or association of the producer to the NLBM; or which causes confusion as to the origin/sponsorship/ endorsement/approval of the producer's goods, services or commercial activities by another person; or any use of a Trademark that is otherwise in violation of applicable law.

**Licensing Agent** means one who is empowered to act on behalf of another or represent another on issues related to the manufacture, distribution and sales of goods or services bearing protected Trademarks.

**Licensor** means one who contracts to allow another (licensee) to use licensor's property (i.e., Trademarks), usually in exchange for a royalty as a percent of sales.

**Authentic** means the article or product being produced is identical to what the NLB teams' players and coaches wore during games (material is the same, design is the same).

**Replica** means the article or product looks substantially identical to what teams wore, but may vary as to material or quality. Replicas are not the same as authentic.

**Licensing Requirements**

Any individual, organization or company wishing to use the NLBM's Trademarks must be properly licensed to do so.

Distributing, brokering or retailing licensed goods does not require a license, nor will licenses be issued for such purposes.

**Enforcement**

The NLBM reserves the right to pursue any and all legal remedies against infringement (see definition above) of the Trademarks. If the NLBM engages the services of an agent, the agent is authorized to pursue enforcement actions on the NLBM's behalf.

**Use of Trademarks in Commercial Promotions, Including Commercial Internet Sites**

The use of the NLBM's Trademarks in conjunction with a commercial promotion, including a commercial Internet site, may be permissible if the following criteria are met:

1. The promotion or use must be beneficial to the NLBM. This benefit may be tangible or intangible.

2. The use must be consistent with the NLBM's institutional mission, values and standards of excellence.

3. The use must be consistent with all other provisions of this memorandum.

The use of the NLBM's Trademarks in conjunction with commercial promotions or on a commercial Internet site must be approved by the Executive Director and the Director of Licensing. Requests for approval will be communicated to the Director of Licensing in writing. The NLBM may require that such promotions operate under a promotional license.

**Promotional Licenses**

A promotional license is a limited term contract between the NLBM and a company, organization or individual in which limited single-use permission is granted to use the NLBM's Trademarks in a commercial promotion. A fee will be charged for promotional licenses, depending on the nature of the promotion. All promotional material must be approved in advance by the Director of Licensing.

**Use of Trademarks in Commercial Advertising**

The use of the NLBM's Trademarks in advertisements in various media, including, but not limited to, TV, radio, print and on the Internet, may be permissible if the following criteria are met:

1. The advertisement promotes the sale of officially licensed NLBM merchandise.

2. The advertisement does not state or imply any endorsement of the company or its products by the NLBM.

3. The advertisement artwork is approved in writing by the Director of Licensing prior to publication and complies with any other requirements imposed by the NLBM.

**Commercial Use of Photographs/Illustrations**

A license agreement IS required and royalties ARE due if:

• The picture or illustration is used as a graphic decoration on a commercial product.

• The packaging or advertisement for the product that contains or carries a photograph or illustration is presented in a manner that implies affiliation or association with the NLBM.

• The NLBM's Trademarks appear on any packaging or promotional materials and/or announcements that promote the merchandising of the product.

• Any use which is not included in the listing of examples for which a license agreement is not required and no royalties are due (which list appears in the next section).

A license agreement is NOT required and NO royalties are due if:

• The photograph or illustration is being purchased for non-commercial (in-home) use. (No prior permission required.)

• The photograph or illustration is to be used in a commercial establishment as decoration, but only in a manner that would not imply an affiliation, endorsement or association with the NLBM.

• The photograph or illustration is being used by a recognized news gathering service for news publication or news broadcast. (No prior permission required.)

• The photograph or illustration is being used in a historical context by a recognized news agency, publisher or other service for news, commentary or educational purposes. (No prior permission required.)

• The photograph or illustration is used in an entertainment or artistic context such as commercial movies or TV shows. The NLBM must receive written requests for this use and approve same in writing before use.

**Commercial Product Design Approvals**

The NLBM reserves the right to approve each use of its Trademarks on a per product, per design basis. Licensees or those that are given permission will submit each proposed use, product or design to the NLBM (for commercial products) for approval.

The NLBM will not approve the use of its Trademarks on or in connection with the following products:

Alcoholic beverages

Tobacco or tobacco-containing products

Legally controlled substances

Sexually oriented products or designs

Religious affiliated products or designs

Political products or designs

Games of chance

Appliques, patches or heat transfers for retail sale

In addition, the NLBM will not approve the use of the Trademarks in text or graphics which are judged to be sexually suggestive, denigrate any group(s), or infringe on the rights of other trademark owners. The NLBM will not approve products that do not, in the NLBM's sole discretion, meet minimum standards of quality and/or good taste or those that are judged to be dangerous or carry high product liability risks.

The NLBM approves products or designs incorporating its current Trademarks. Trademarks that have been supplemented by updated versions continue to be protected and owned by the NLBM.

**Royalties**

All licensed goods and services for sale to the public are subject to a royalty. The royalty rate is determined by the NLBM and is subject to change by the NLBM.

The NLBM may grant exemptions from royalty payments in the following situation on a case-by-case basis:

• Items purchased by the NLBM for its use ("internal consumption") or sale. A licensee must produce these items unless an exception is granted by the NLBM.

The NLBM will provide licensed manufacturers with written notification that these goods are exempted from royalty payments. The NLBM will provide written permission if an unlicensed manufacturer produces any of these goods. All other provisions of this memorandum regarding Trademarks apply to items that are exempt from royalty payments.

**Disbursement of Royalty Income**

Royalties generated by the licensing program are deposited into the general funds of the NLBM to support its operations.

**Technical Guidelines for Presentation, Display and Reproduction of Trademarks**

Guidelines are established which describe how the NLBM's Trademarks should be presented, displayed and reproduced. These guidelines are incorporated in the NLBM's Official Design Notebook and are made a part of this policy. Any perceived inconsistency between this policy and the NLBM's Official Design Notebook shall be governed by the provisions of the NLBM's Official Design Notebook (including the guidelines).

These guidelines may change from time to time. Current guidelines are available from the NLBM. The NLBM encourages creative uses of its Trademarks in promoting the history of Negro Leagues Baseball and recognizes that concepts or designs developed by licensees may not clearly fall within the guidelines. The NLBM will be the sole judge of acceptability and reserves the right to grant approval of uses and designs which may deviate from these guidelines.

Questions regarding these and other licensing questions may be directed to Tom Busch, the Director of Licensing, at 913-451-8383.