UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

INDIA BREWERIES INC.,

Plaintiff, Case No. ________________

vs.

MILLER BREWING COMPANY,

Defendant.

COMPLAINT

NOW COMES the Plaintiff, India Breweries Inc., by its attorneys, Michael Best & Friedrich LLP and Bartlit Beck Herman Palenchar & Scott LLP, and for its Complaint against the Defendant, Miller Brewing Company, alleges as follows:

1. India Breweries Inc. ("IBI") is a foreign corporation with its principal place of business located at 1 Yonge Street, Suite 1801, Toronto, Ontario, Canada M5E 1W7.

2. Miller Brewing Company ("Miller") is a corporation organized under the laws of the State of Wisconsin, with its principal place of business at 3939 West Highland Blvd., Milwaukee, Wisconsin.

3. On or about September 22, 1999, IBI and Miller entered into a License Agreement ("Agreement"), a copy of which is attached hereto and incorporated herein as **Exhibit 1**.

JURISDICTION

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §1332(a)(2) and the express consent of the parties, as detailed in the Agreement. Agreement, §6.22(b).

VENUE

5. Venue is proper in the District Court for the Eastern District of Wisconsin pursuant to 28 U.S.C. §§1391(a), (b) and (c) and the express written consent of the parties. Agreement, §6.22(b).

CONTROLLING LAW

6. The Agreement provides that "[t]he internal law of the U.S.A. (except for the dealership laws of the State of Wisconsin, Chapter 135) shall govern the dispute." Agreement, §6.22(b).

FACTUAL BACKGROUND

7. This action arises from Miller's breach of several agreements it made with IBI concerning the brewing and importation of Miller beers in India.

8. In the late 1990s, the Indian beer market was growing rapidly, in excess of 10% annually. India represented an excellent growth opportunity for premium beer brands, with over a billion residents and the largest middle class in the world (300 million according to the World Bank). India was also experiencing rapid growth in disposable income, private consumption expenditures, and gross domestic product.

9. Beginning in 1997, Miller and IBI began discussions of a mutual opportunity to brew and distribute Miller beer brands in India. At that time, IBI had significant knowledge of and connections in the brewing industry in India.

10. In particular, IBI had entered into a joint venture with Mohan Meakin Ltd. ("Mohan") for the purpose of pursuing brewing and beer distribution opportunities in India. Mohan was in 1997, India's oldest and second largest brewing and distilling company, with over 20,000 workers and eight breweries. At that time, Mohan's largest selling beer brand, Golden

Eagle Lager Beer, had a 28% market share in its segment in India. Mohan also maintained the largest beer sales and distribution network in India.

11. The negotiations between IBI and Miller resulted in the execution of a Letter of Intent on or about November 23, 1998, by which the parties expressed their mutual intention that Miller would grant IBI the right to brew certain Miller brands of beer in India.

12. Negotiations continued between IBI and Miller throughout 1999, ultimately resulting in the execution of the Agreement.

13. The Agreement, among other things, granted IBI an exclusive license to brew and sell certain Miller brands, including Miller High Life, Miller Pilsner and Miller Beer, for a period of ten years, subject to renewal at IBI's option for an additional ten years. Agreement, §§1.1, 5.1.

14. The Agreement further granted IBI a right of first refusal in the event Miller decided to brew additional Miller brands in India, and provided IBI a right of first refusal if Miller decided to grant new distribution or license rights for the licensed Miller brands in certain enumerated countries of South Asia, including Pakistan and Bangladesh. Agreement, §1.5. Together these rights granted IBI the first right to produce all of the Miller brands in up to seven countries comprising around 25% of the world's population. This was then, and still remains to this day, the largest scale license granted by Miller worldwide.

15. The Agreement further provided that IBI would engage breweries in India to brew the Miller branded products, subject to Miller's written approval of such breweries. Miller further agreed that it would inspect breweries identified by IBI and that approval of such breweries would not be unreasonably withheld. Under the terms of the Agreement, in the event

IBI failed to have fully operational brewing capacity by December 31, 2000, the Agreement could be terminated. Agreement, §§2.5, 5.1.

16. The Agreement also provided for minimum royalties to be paid to Miller. Based solely on the minimum royalties specified in the Agreement, the parties expressed their expectation of sales volumes which would result in the minimum profits to IBI being in excess of $500 million.

17. In performance of its obligations under the Agreement, IBI expended millions of dollars in good faith including identifying and upgrading Mohan's Madras, Artos and Delhi breweries as potential breweries of Miller branded beer.

18. In October of 1999, Mr. Giorgio Sega ("Sega"), Miller's Director of International Operations and Chief Brew Master, visited Mohan's Madras and Delhi breweries and rejected both as potential breweries of Miller branded beer.

19. In January of 2000, IBI proposed two newer Indian breweries to brew Miller branded beer, these included Mohan's Artos brewery and one owned by Rajasthan Breweries, Ltd. The Rajasthan brewery had previously brewed Strohs beer, an American premium brand, and was a modern facility designed by a well-respected European engineering firm, Danbrew. Sega rejected the Artos brewery and recommended that IBI secure rights to brew beer in the Rajasthan brewery.

20. As a result of Sega's recommendation, IBI negotiated an agreement to buy or contract brew Miller branded beer at the Rajasthan brewery in March of 2000.

21. On March 9, 2000, IBI informed Miller that it had completed a purchase option agreement with Rajasthan Breweries, Ltd. for brewing Miller branded beer, and requested that Sega and a Miller technical team visit the brewery as soon as possible for purpose of approving

the brewery for Miller branded beer.

22. In March of 2000, Miller agreed that it would visit the Rajasthan brewery, but requested that IBI become acquainted with Miller's specifications in advance of the visit.

23. Later in March, 2000, South African Breweries, Ltd. ("SAB") announced its intention to invest in India, a market it termed one of the top growth markets in the world.

24. In March and again in April of 2000, Miller delayed its visit to the Rajasthan brewery, and continued to delay such a visit, despite IBI's increasingly urgent requests, throughout 2000. Ultimately, Miller never did visit the brewery as required by the Agreement.

25. In July 2000, Miller announced that its Miller Genuine Draft brand would be brewed in Russia at breweries owned by two Russian subsidiaries of SAB, under a license agreement with SAB.

26. In or about October, 2000, IBI obtained rights in India to purchase, or to contract brew Miller branded beer, at the Him Neel Brewery, a recently constructed Indian brewery, built by Steinecker of Germany, which brewed Beck's beer in accordance with exacting German Purity Law standards.

27. In October and November of 2000, IBI repeatedly requested that Miller send an inspection team to visit the Rajasthan and Him Neel breweries, and subsequently provided Miller with technical specifications. Miller continued to decline to send technical teams to assess the breweries identified by IBI.

28. In a letter dated November 28, 2000, and in subsequent correspondence in December of 2000, and January of 2001, Miller rejected both the Rajasthan and Him Neel breweries on the grounds that both breweries were not equipped to brew beer by the "high gravity process." A Miller executive further indicated that "based on the lack of overall progress

to date and the unacceptability of the Rajasthan brewery," Miller would not be inclined to extend the Agreement beyond the December 31, 2000, date by which the Indian breweries were to be operational under the Agreement. Miller also purported to justify its rejection of these breweries on grounds that they lacked stretch wrap capability and a palletizer. These trivial alleged deficiencies could have been easily cured, even though they were not even requirements under the Agreement.

29. The "high gravity process," which Miller employs in the brewing of its beers, involves the manufacture of beer initially in a concentrated, high alcohol content form, which later in the brewing process is diluted to the desired alcohol content. High gravity brewing is illegal in India.

30. Miller was made aware of the prohibition against high gravity brewing on several occasions, many months prior to the execution of the Agreement. On one such occasion, Miller responded to IBI on January 7, 1999, stating "because of the legal restriction in India regarding high gravity brewing, we are willing to brew at std. [standard] gravity." In addition, under Section 6.15 of the Agreement, its terms could not be construed to require an unlawful act.

31. As a result of Miller's representation in January of 1999 that standard gravity brewing was acceptable, Miller's identification of the lack of high gravity brewing capability, in late 2000, as a basis for rejecting the Rajasthan and Him Neel breweries was a subterfuge to conceal Miller's bad faith and breach of the Agreement. The Rajasthan and Him Neel breweries proffered to Miller by IBI under the Agreement could have met Miller's brewing standards.

32. Beginning in January 2000, Miller also requested that IBI obtain approvals from the Indian government for the importation of Miller branded beer into India, and requested IBI to organize a distribution system for the imported beer. Based on Miller's request, IBI invested

substantial time and resources to develop the capability to import and distribute Miller branded beer. This included the leasing of a building for the national sales headquarters and the hiring of a sales force. In August of 2000, Miller provided IBI a price list for importation of Miller products and offered to fill orders submitted by IBI. Also in August, 2000, Miller sent to IBI a shipment of more than nine pallets of advertising materials to support its distribution of Miller products. In October and again in November of 2000, IBI accepted Miller's offer by ordering five container loads of Miller branded products, thereby forming a contractual relationship separate from and in addition to the Agreement. However, in December of 2000, Miller breached its contract by declining to fill orders from IBI for its products to be imported into India.

33. In February of 2001, Miller formally terminated the Agreement, asserting a violation of Section 5.1 (g) of the Agreement, which required brewing capability in India to be provided by the end of 2000. To the contrary, at all material times, IBI substantially complied with all of its obligations under the Agreement.

34. In June of 2001, SAB announced its acquisition of three Indian breweries to target the rapidly growing Indian beer market. None of those breweries employed the high gravity brewing process. In October of 2001, SAB announced its plans to invest $100 million in the Indian beer market because it expected that market to triple within 10 years.

35. In the fall of 2001, Miller urgently summoned IBI to meet with Miller representatives. Representatives of IBI traveled from India to North America for a meeting on November 14, 2001. At that meeting, Miller advised IBI that it had no interest in doing business with IBI, and had only called the meeting in order to "cross off Article 6.22." Article 6.22 of the Agreement required that the senior executives of the parties meet and "use good faith efforts" to

resolve any dispute. Shortly thereafter, discussions of a potential merger or acquisition between SAB and Miller became publicly known. In May of 2002, SAB and Miller formally announced SAB's acquisition of Miller. SAB was subsequently renamed SABMiller plc ("SABMiller").

36. For the past two years, SABMiller has been brewing its leading beer brand in India at both the Madras brewery and the Artos brewery, the very same breweries which had been previously offered by IBI and rejected by Miller. By May of 2003, SABMiller had achieved a 35% share of the Indian beer market and had become the second largest brewer in India.

COUNT I

BREACH OF CONTRACT

37. IBI repeats and realleges Paragraphs 1-36 as if fully stated herein.

38. Miller breached the Agreement in at least the following respects:

a. Miller failed to perform in good faith its contractual obligations to inspect the Indian breweries and exercise reasonableness in withholding approval of such breweries.

b. Miller, in basing its rejections of breweries and termination of the Agreement on the lack of high gravity brewing capability at the proffered breweries, acted in bad faith, having earlier advised IBI that standard gravity brewing was acceptable.

c. Miller, in basing its rejection of breweries and termination of the Agreement on the lack of high gravity brewing capability, acted in violation of Section 6.15 of the Agreement, which prohibited the Agreement from being construed to require any unlawful act.

d. Miller, in bad faith, attempted to justify its unlawful termination of the Agreement on trivial or easily correctable deficiencies such as the lack of palletizer and a stretch wrapper, which were not requirements under the Agreement.

e. Miller acted in bad faith performance of its obligations in terminating the Agreement without justification.

f. Miller failed to exercise good faith in regard to the dispute resolution negotiations provided for in Section 6.22 of the Agreement.

39. As a result of Miller's breach of contract, IBI has suffered out-of-pocket losses of not less than $5,000,000, incurred in good faith compliance with its obligations under the Agreement.

40. As a result of Miller's breach of contract, IBI has suffered lost profits of, at a minimum, $500,000,000.

COUNT II

BREACH OF IMPORTATION CONTRACT

41. IBI repeats and realleges Paragraphs 1-36 as if fully stated herein.

42. Miller breached its separate contract to fulfill IBI's orders for Miller products for importation into India, by refusing to fill IBI's orders for those products.

43. As a result of Miller's breach of contract, IBI has suffered out-of-pocket losses of not less than $600,000, incurred in good faith compliance of the contract.

44. As a result of Miller's breach of contract, IBI has suffered lost profits in excess of $90,000,000.

WHEREFORE, Plaintiff India Breweries Inc. demands judgment against Miller Brewing Company as follows:

A. For such damages, including out of pocket expenses and lost profits, as may be proven at trial.

B. For attorneys fees and costs pursuant to the Agreement's indemnification provisions.

C. For such further relief as the Court may deem just.

Dated this 22nd day of April, 2005.

MICHAEL BEST & FRIEDRICH LLP

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TRIAL BY JURY IS HEREBY DEMANDED ON ALL ISSUES SO TRIABLE.

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LICENSE AGREEMENT

THIS AGREEMENT is entered into by and between MILLER BREWING COMPANY, a Wisconsin corporation with its principal offices located at 3939 West Highland Boulevard, Milwaukee, Wisconsin 53208 U.S.A. ("Miller"), and India Breweries Inc., an Ontario company having its principal offices located at 1 Yonge Street, Suite 1801, Toronto, Ontario, Canada M5E 1W7 ("IBI").

WHEREAS, Miller has obtained trademark registration(s) or has filed (or will attempt to file) application(s) covering the marks listed on Schedule A attached hereto (the "Marks") covering at least the Schedule B territory (the "Territory");

AND WHEREAS, Miller has developed confidential formulae and processes associated with the production of its malt beverage brands listed on Schedule A (the "Licensed Beer(s)");

AND WHEREAS, IBI is wholly owned by the parties in the percentages listed on Schedule F and IBI owns 50% of International Breweries Pvt. Ltd. ("IBP") of which the remaining 50% is owned by Mohan Meakin Ltd. ("Mohan");

AND WHEREAS, IBI wishes to have certain of such information disclosed to it and wishes to obtain a license from Miller to use such information and the Marks to produce the Licensed Beer(s) in the Territory (likely by granting a sublicense to IBP);

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, and for the mutual benefits to be derived from this Agreement, the parties hereby agree as follows:

EXHIBIT

1

Article I - Miller Marks

1.1 Grant. During the term of this Agreement, (a) IBI shall have an exclusive (except as provided below) and non-transferable (except as provided below) license to brew and sell the Licensed Beer(s) in the Territory and use the Marks or Licensed Beer(s) in the Territory, (b) IBI may not use or authorize the use of the Marks in connection with the sale, distribution, or manufacture of any other item or service except as permitted herein, (c) IBI further agrees that it will not brew (or authorize the brewing of) Licensed Beer(s) outside of the Territory or solicit or sell (or authorize the solicitation or sale of) Licensed Beer(s) outside of the Territory, and (d) IBI shall not (or authorize others to) accept any orders for Licensed Beer(s) where it has reason to know that the purchaser intends to, directly or indirectly, distribute the Licensed Beer(s) outside of the Territory. Subject to Miller's retained rights as described in the remainder of this paragraph, Miller agrees not to sell or distribute in (or to appoint any other person to sell or distribute in) the Territory the brands listed on Schedule A. IBI acknowledges that distributorships and licenses for the sale of such brands of fermented malt beverage products have been and may continue to be granted by Miller to those having areas of prime or other distribution responsibility outside of the Territory. However, except as provided below, where lawful Miller will use its best efforts to stop its other distributors and licensees from selling the brands listed on Schedule A in the Territory during the term of this Agreement. Miller also retains the right to sell, or have others sell, any products under the Marks (or any other marks) to foreign military bases (if any), duty free stores, ship chandlers, airlines, embassies, five star hotels, and those that purchase and sell in bond, in the Territory.

1.2 Sublicensing/Contract Brewing.

Subject to the terms and conditions of this Agreement (e.g. Paragraph 2.5), IBI may, with the prior consent of Miller (which consent shall not be unreasonably withheld) sublicense its brewing and distribution rights under this Agreement to IBP (including the right to retain a contract brewer - e.g. Mohan and/or an IBP wholly-owned subsidiary) for the brewing of some or all of the Licensed Beer(s) in the Territory pursuant to this license. However, nothing herein requires Miller to approve a sublicensee other than IBP, or a contract brewer other than IBP, an IBP wholly-owned subsidiary, and/or Mohan.

1.3 Ownership Of Marks.

(a) IBI hereby agrees (and shall cause IBP to agree on terms acceptable to Miller) that the Marks and the appurtenant goodwill are the sole property of Miller in the Territory and elsewhere.

(b) IBI agrees (and shall cause IBP to agree on terms acceptable to Miller) that they will not, by virtue of any of their activities pursuant to this Agreement, obtain any ownership interest in or title to the Marks, or in any registrations thereof, and that any uses of such Marks that they make shall inure only to the benefit of Miller. If by operation of law or otherwise, IBI or IBP shall obtain any ownership interest in or to the Marks, upon written request by Miller, IBI shall (and shall cause IBP to agree on terms acceptable to Miller to) promptly assign the Marks to Miller (at no cost to Miller).

(c) IBI (and IBP) shall have no right to take or require any action with respect to registering or otherwise obtaining, maintaining, or enforcing rights in and to the Marks, but IBI shall cooperate (and shall cause IBP to cooperate) in any such actions as requested by Miller without charge.

(d) IBI agrees that (and it shall cause IBP to agree that), except as permitted herein, during the Agreement term and thereafter, they will not (either alone or in concert with others) use or attempt to register (i) any mark confusingly similar to the Marks, or (ii) any label, package, or product ornamentation confusingly similar to those used in connection with Licensed Beer(s) for any type of product.

(e) Where reasonably necessary to facilitate the purposes of this Agreement, to the extent the Marks are registered in India, IBI shall cooperate (and shall cause IBP to cooperate) to enter into registered user agreements consistent therewith and this Agreement.

1.4 <u>Trademark Usage</u>.

(a) IBI hereby agrees (and shall cause IBP to agree on terms acceptable to Miller) to use (whether by way of labeling, packaging, product ornamentation, advertising, promotional item, or otherwise) the Marks only in contexts, locations, forms, styles, and colors prescribed or previously approved in writing by Miller. In any event, any rights Miller may, in its discretion, decide to grant in connection with promotional items shall be non-exclusive. Except as approved by Miller in writing on a case by case basis, no rights are granted hereunder to use the Marks on web sites or the Internet. Further, if Internet or web site usage is approved by Miller, no IBI or IBP authorized references to Miller Brewing Company may appear therewith (apart from the Marks), the reference must not be directed to those who are too young to lawfully drink the Licensed Beer (with appropriate age restrictions governing access to the reference), the reference must not itself solicit electronic orders for the beer, the domain/site names may not include a Mark, and the site must not permit downloading. Moreover, except as approved by Miller in writing on a case by case basis, no rights are granted hereunder to use the Marks on merchandise intended for sale (apart from the Licensed Beer(s) itself). If for sale merchandise (apart from Licensed Beer) is approved, it shall be subject to the terms and conditions of this Agreement with each type of item and Mark to be subject to approval by Miller (e.g. adult sizes only for clothing), and further subject to a mutually agreed royalty.

(b) Miller may exercise this approval power on an item by item basis and/or by approving generic formats. After prior consultation with IBI, Miller may from time to time, prescribe changes in formats of usage of Marks for the Territory and IBI will promptly comply with any such changes (and cause IBP to do so as well). Any such changes requested by IBI shall be subject to Miller's approval.

(c) IBI shall place on each packaging and labeling for Licensed Beer(s) which is produced pursuant to its authorization a notation which states "Produced for India Breweries Inc. under license from Miller Brewing Company", or another similar statement acceptable to Miller in English or another language acceptable to Miller.

1.5 Rights Of First Refusal.

(a) If during the term of this Agreement Miller decides to commence (or license others to commence) the manufacture in the Territory of any additional Miller owned fermented malt beverage brand(s), Miller shall offer IBI in writing a right of first refusal. If IBI declines such an offer, or if the parties fail to reach agreement on terms within three months of the offer being made, Miller shall be entitled to enter into arrangements with third parties to conduct such activity. If any such arrangements contain terms that differ materially from the terms offered to IBI Miller shall first offer such revised terms to IBI, and the provisions of this clause shall apply to such revised terms. Nothing herein is intended to grant a right of first refusal, any exclusivity, or any other rights, with respect to other brands brewed but not owned by Miller, regardless of whether the Miller Brewing Company name appears on the label of such products as a brewer. Further, nothing herein is intended to grant a right of first refusal for a Schedule G country with respect to temporary or short term test distributor appointments.

(b) If during the term of this Agreement Miller decides to grant new distributorship or license rights for a brand licensed hereunder, albeit in a Schedule G country, Miller shall offer IBI in writing a right of first refusal with respect thereto. If IBI declines such an offer, or if the parties fail to reach agreement on terms within one month of the offer being made, Miller shall be entitled to enter into arrangements with third parties to conduct such activity. If any such arrangements contain terms that differ materially from the terms offered to IBI Miller shall first offer such revised terms to IBI, and the provisions of this clause shall apply to such revised terms. Nothing herein is intended to grant a right of first refusal for Schedule G countries, any exclusivity, or any other rights, with respect to other brands brewed but not owned by Miller, regardless of whether the Miller Brewing Company name appears on the label of such products as a brewer.

Article II - Technology

2.1 Definitions.

(a) "Recipe(s)" as used in this Agreement shall mean those formulae and processes specified by Miller for use by IBI in connection with the Licensed Beer(s) under this Agreement, which IBI acknowledges may well be different in certain respects from formulae and processes currently being specified by Miller for use with the brands listed on Schedule A in the United States. Miller will have no obligation to try to obtain patent protection on the Recipes in the Territory, or to disclose to IBI technology used by Miller in the U.S. under a confidentiality agreement with a third party.

(b) The term "Confidential Information" shall include the Recipes supplied by Miller (as Miller's Confidential Information) and all other matters which are by their nature confidential relating to the business of Miller or IBI which may be disclosed in confidence by a party to the other before or during the term of this Agreement including, without limitation, information relating to either party's research, development, product design, engineering data, specifications, processes, formulations, production operations or techniques, planning, purchasing, accounting, finance, selling, marketing, market research, promotional plans, customers, suppliers, and other information of a similar nature (the Confidential Information being defined with respect to the party to whom it is disclosed (the "Disclosee") so as to exclude information which is or becomes public knowledge through no fault of the Disclosee or its employees, or which is known to the Disclosee prior to the start of its first confidential relationship with the other party as corroborated by credible evidence, or any information which is legitimately received by the Disclosee from a third party not under duty of confidence to the other party).

2.2 <u>Confidentiality</u>. Each party warrants to the other that it will during the Agreement term and thereafter:

(a) retain all Confidential Information of the other party in confidence;

(b) not disclose any Confidential Information of the other party to any third party without the other party's permission (e.g. a Miller approved sublicensee or contract brewer who has agreed in writing to be bound by the confidentiality restrictions hereunder);

(c) not use any Confidential Information of the other party for any purpose other than performing or utilizing its rights and duties hereunder (or as permitted under other written agreements between the parties);

(d) use its best efforts to limit access to Confidential Information of the other party to those of its employees (or the employees of its Miller approved sublicensee, contract brewer(s), and/or appointed agencies) who have a need to know the information for the business purposes of this Agreement (or as permitted under other written agreements between the parties); and

(e) ensure that all tangible objects and copies thereof in its possession and/or under its control (or under the control of its sublicensee/contract brewer(s)) containing or imparting Confidential Information of the other party shall be destroyed and/or returned to the other party, upon the other party's request.

In this regard, IBI specifically covenants that the Recipes shall not be used by IBI, IBP, any IBP subsidiary, Mohan, or other IBI authorized contract brewers except to accomplish the purposes of this Agreement, nor will IBI disclose the Recipe(s) to a third party until the third party has been specifically approved in writing by Miller. Notwithstanding the above, nothing prohibits disclosure to a governmental agency as required by law where the governmental agency has committed to keep the information confidential. IBI shall be responsible to insure that IBP, Mohan, and any other contract brewers it authorizes to produce Licensed Beer(s) shall fully comply with the provisions of this paragraph.

2.3 Technology License Grant During the term of this Agreement, IBI shall have the right (subject to the limitations described in this Agreement) to use the Confidential Information related to the Licensed Beer(s) in the Territory to produce the Licensed Beer(s) for sale in the Territory in accordance with Paragraph 1.1. No other right or benefit to use the Confidential Information is hereby granted or intended, either directly or by implication, and no other right or benefit will be claimed by IBI, except as herein provided (or otherwise agreed to by Miller in writing).

2.4 Disclosure

(a) Miller agrees to disclose to IBI the Recipes to brew the Miller High Life, Miller Pilsner and Miller Beer brands of Licensed Beer no later than 60 days after the execution date of this Agreement, albeit nothing requires such disclosure of a Recipe earlier than thirty days after IBI notifying Miller that it is prepared to begin test brewing of that Recipe at a brewery that IBI or a Miller approved sublicensee or contract brewer owns in the Territory. If Miller designates additional brand(s) for inclusion as Licensed Beer(s) (e.g. Miller Strong brand beer) it shall disclose to IBI the Recipe(s) therefor within thirty days after making each such designation.

(b) In preparation for the introduction of the Licensed Beer(s) in the Territory and thereafter an exchange of technical information will occur on the following basis. It is understood that members of IBI designated brewing staff may periodically visit Miller's corporate offices and breweries at times mutually agreed to by the parties to review certain aspects of the brewing, testing, bottling, packaging, and other facilities that Miller uses to produce the brands of Licensed Beers listed on Schedule A in the United States, and the techniques Miller uses to monitor the quality of such beer. It is understood that IBI designated staff will be provided by Miller with freshness and storage requirements as well as other information useful in monitoring and maintaining the quality of the Licensed Beers in the marketplace. It is also understood that members of IBI sales and marketing staff may visit Miller's corporate offices for sales meetings and marketing reviews. All costs incurred by IBI in connection with all such visits will be borne by IBI.

(c) It is also understood that, at mutually agreed times, members of Miller's brewing staff may visit IBI (or its sublicensee or the contract brewer(s)) to consult with them relating to the Licensed Beer(s). All out-of-pocket costs incurred by Miller in connection with all such visits will be promptly reimbursed by IBI.

2.5 Tests And Acceptances. With respect to each brewery where a Licensed Beer is to be brewed, IBI (after consultation with and inspection by Miller) will conduct (or cause to be conducted) commercial scale test brews of each Recipe that is to be used at that brewery. Prior to beginning commercial brewing of each Licensed Beer at the brewery in the Territory, IBI will obtain Miller's written approval of the brewery and the Licensed Beer(s) made at that brewery, which approval shall not be unreasonably withheld. As defined herein, "commercial brewing" shall mean production of Licensed Beer(s) for sale. Where brewing is to be performed by a sublicensee or a contract brewer, no such sublicensed or contract brewing-brewing may take place unless Miller has approved in writing the brewer, the brewery, the confidentiality protection relating thereto, and the terms of the sublicensing/contract brewing relationship. Further, Miller need not approve any sublicensing or contract brewing (and/or sublicensee or contract brewers) for any brand(s) other than the Schedule A brands of Licensed Beers.

2.6 Licensed Beer Ingredients.

(a) In order to assist IBI in acquiring certain ingredients essential for production of the Licensed Beers in accordance with this Agreement, Miller hereby offers to sell to IBI and IBI agrees to purchase only from Miller IBI's and IBP's requirements during the term of this Agreement of culture yeast and hop extract needed for the production of Licensed Beers pursuant to this Agreement. The culture yeast and hop extract used by IBI (or IBP or the contract brewer) will have specifications established by Miller.

(b) Culture yeast purchased by IBI from Miller shall be handled as prescribed by Miller. IBI shall not propagate (and shall prevent IBP and its contract brewer(s) from propagating) such culture yeast (other than in the production of Licensed Beers), nor shall IBI use (and IBI shall prevent IBP and its contract brewer(s) from using) such culture yeast or hop extract for any purpose other than the production of the Licensed Beers in accordance with the terms of this Agreement. IBI shall not sell, transfer or deliver any such culture yeast or hop extract to any third party (except a Miller approved sublicensee or Miller approved contract brewer who will use them only for Licensed Beers).

(c) All sales of such culture yeast and hop extract by Miller to IBI for use in connection with Licensed Beers shall be made F.O.B. Miller's designated facility at Miller's cost. Payment by IBI shall be made within 30 days of receipt by IBI (in United States dollars at a U.S. bank selected by Miller). IBI shall be solely responsible for obtaining all necessary permits, import licenses, and the like which are required in order to import the Licensed Beer ingredients into India.

(d) Miller shall not be liable to IBI for failure to perform any of its obligations under Paragraph 2.6 of this Agreement when and, for as long as, such failure is directly attributable to force majeure, strikes, lockouts, acts of public enemies, fire, riots, insurrection, revolution, declared or undeclared war, state of war or belligerency or hazard incident thereto, and/or governmental action due to causes beyond its reasonable control. However, in the event of such a problem, Miller shall use reasonable efforts to overcome the failure promptly (albeit nothing herein requires Miller to overcome any restrictions imposed by India on import or use of such yeast or hop extract).

2.7 Product And Package Quality. IBI warrants that:

(a) Before IBI (or its sublicensee or contract brewer(s)) uses labels, containers, packaging, promotional items or product ornamentation bearing a Mark, IBI will submit a sample thereof to Miller for written approval, and only upon such written approval being given, may they (subject to the other limitations of this Agreement) publicly use such item. During the term of this Agreement, at intervals which Miller may reasonably specify, IBI, at IBI's cost, shall provide Miller with additional representative samples of labels, containers, packaging, promotional items and product ornamentation bearing the Marks.

(b) All labels, containers, packaging and materials bearing a Mark shall be of a uniform quality at least equivalent in all respects to the quality of items approved by Miller.

(c) Every month during the term of this Agreement IBI, at IBI's cost, shall deliver to a Miller specified United States test facility product samples of the Licensed Beer(s) from the brewery where it is produced.

(d) All Licensed Beer bearing a Mark shall be of a uniform quality throughout the Territory within designated specifications as determined by Miller and agreed to by IBI. Licensed Beer(s) shall be produced in strict accordance with such Recipe(s) and Licensed Beer specifications.

(e) IBI shall supply Miller with monthly quality control reports relating to the production of the Licensed Beer(s) in a reasonable format agreed to by Miller.

(f) At all reasonable times during normal business hours, IBI agrees to permit Miller to enter any premises of IBI or IBP (and their contract brewer(s)) where a Licensed Beer or Miller supplied culture yeast is produced, processed, packaged, or stored (e.g. so as to inspect the brewing facility, brewing procedures, brewing laboratory, packaging and storage, quality control procedures, and all pertinent records reasonably applicable to such products and Miller supplied culture yeast). IBI will cause responsible employees of IBI, IBP and their contract brewer(s) to fully cooperate with Miller with respect to such inspections. IBI will keep Miller advised of each location where such activities are taking place.

(g) IBI will ensure that IBI and those who handle its or IBP's wholesale distribution adhere to all conditions that may be reasonably prescribed by Miller in relation to the storage of Licensed Beer to ensure that, at all times, the quality of Licensed Beer is maintained. In this regard, IBI shall cause Licensed Beer to be produced only in reasonable quantities so as to ensure adequate but not excessive inventories. IBI shall also ensure that it and those who handle its or IBP's wholesale distribution do all things necessary to protect the quality of Licensed Beer while in their possession, including but not limited to, maintaining proper storage and stock rotation in order to prevent overage Licensed Beer from being sold in the marketplace, and defend and hold Miller harmless from their failure to do so. IBI shall also destroy, or cause to be destroyed, at IBI cost and expense, any stock of Licensed Beer in its, IBP's, Mohan's, or its other contract brewer's/brewers' possession that is past its expiration date or otherwise may have been damaged or become unmarketable by reason of the beer's quality having deteriorated due to age. Further, IBI shall use its best efforts to withdraw from the market and destroy or cause to be destroyed (at no cost to Miller) any Licensed Beer in the Territory that is in the possession of wholesalers, retailers, or others which is past its expiration date or otherwise may have become unmarketable by reason of the beer's quality having deteriorated due to age. IBI specifically understands that the quality of Licensed Beer is directly related to its age and will, at all times, make every reasonable attempt to maintain fresh Licensed Beer in the market. IBI shall cause all Licensed Beer that it authorizes the production of to be date coded in a manner approved by Miller, and all such beer shall have an expiration date no later than 180 days from the date of production in the case of bottled and canned beer.

(h) Beginning no later than the first production of Licensed Beer hereunder, IBI shall maintain (or shall cause IBP to maintain) throughout the remainder of the Agreement an office and employees in the Territory.

Article III - Royalty

3.1 Definitions. The term "Sale(s)" shall include all sales or any other means of transfer by IBI or IBP of Licensed Beer to any other person or entity other than IBI or IBP (with or without consideration). It does not include transfers from IBI's or IBP's contract brewer(s) to either of them. A Sale shall be deemed to take place at the earlier of invoice by IBI (or IBP), shipment by IBI (or IBP), or the date IBI or IBP receives payment for the shipment.

3.2 Royalties.

(a) IBI hereby agrees to pay Miller a royalty on all Sales of Licensed Beer by (or under the authority of) IBI or IBP of:

(i) Two U.S. Dollars ($2.00) per hectoliter (or hectoliter volume equivalent) ("Initial Rate") for Sales prior to 2005; and

(ii) Three U.S. Dollars ($3.00) per hectoliter (or hectoliter volume equivalent) for sales after 2004.

(b) If in any calendar year of the Agreement Sales for the Territory market exceed the applicable Schedule C Minimum Sales Goal therefor, royalties shall also be paid on the excess volume at the rate specified in Paragraph 3.2(a), even though Miller has no Schedule E contribution obligation with respect to the excess.

3.3 Payment Of Royalties. Royalty payments to Miller hereunder shall be made within thirty days after the end of each calendar quarter for Licensed Beer sold in that quarter.

Payments shall be made in United States dollars at a U.S. or other bank selected by Miller, and each such payment shall be accompanied by a statement from IBI giving explanatory details of the computation of royalties as may be reasonably requested by Miller. Records of and relating to royalties due shall be maintained and retained by IBI.

3.4 Independent Audit. Not later than ninety days after the end of each calendar year of the Agreement IBI shall deliver to Miller certificates from IBI's and IBP's independent auditors specifying:

(a) the royalty due Miller for the year and that the royalties paid to Miller during the most recent year have been correctly calculated in accordance with the terms of the Agreement; and

(b) the "Direct Marketing Expenditures" made by or on behalf of IBI for the Licensed Beer(s) in the Territory during the year (with detail reasonably specified by Miller such as the amounts and specific types of expenditure broken down by brand). Such certificate shall be accompanied by payment for any royalties shown thereby to be due to Miller but not paid. Regardless of any sublicensing, IBI shall remain responsible for the payment of all royalties due hereunder.

3.5 Taxes. All royalty payments to be made hereunder by IBI to Miller shall be without deduction of any kind whatsoever including, but not limited to, taxes, fees, registration or recording taxes, stamp charges, any other similar governmental or quasi-governmental charge, or any set-offs or counterclaims. If

IBI shall pay any taxes on behalf of Miller, it shall obtain official tax receipts evidencing such payment and deliver such receipts to Miller within thirty days after such receipts are made available to IBI. In the event that a government (e.g. a Canadian taxing authority) imposes a withholding tax, the parties shall, if Miller so requests, then promptly negotiate increases to the royalty rate so that, after the increased withholding tax is applied, Miller will thereafter receive from IBI the amount it would have received if the increased withholding tax had not been applied.

Article IV - Commercialization And Marketing

4.1 Commercialization. IBI warrants that it (and/or IBP) will begin commercial scale distribution of a brand of Licensed Beer in the Territory no later than June 30, 2000, and thereafter maintain (or cause IBP to maintain) sufficient inventory of that Licensed Beer to meet the demand in the Territory.

4.2 Sales Goals. IBI shall exercise best efforts to cause at least the Schedule C volumes of Licensed Beer(s) to be sold in the Schedule C years in the Territory by it and/or by IBP.

4.3 Advertising Materials. IBI agrees that all of its promotional, merchandising, and advertising activities, plans and materials involving Marks shall:

(a) be truthful and in accordance with the highest standards of commercial ethics;

(b) be in good taste;

(c) not be directed at persons under the legal minimum drinking age and not be designed to encourage over consumption; and

(d) not disparage or impair the Marks or the Licensed Beer(s) sold in connection therewith.

All creative concepts, promotional, merchandising and advertising activities, plans and materials involving the Marks or Licensed Beer(s) must be first approved by Miller in writing prior to use, such approval rights to be exercised in good faith. Also, the advertising agency and brand manager for the Licensed Beers in the Territory shall be subject to Miller's approval, which approval will not be unreasonably withheld. Notwithstanding the approval process described in this paragraph, IBI shall remain solely responsible for insuring that such items fully comply with applicable Territory regulations and laws.

4.4 Marketing.

(a) After first consulting with Miller, a five-year Business Plan shall be submitted by IBI to Miller prior to the first commercial sale of Licensed Beer (and in any event by January 1, 2000), and after further consultation with Miller it shall be updated (by reviewing and possibly revising the last four years of the last plan and by adding plan information for an extra year) not later than the first day of October prior to each succeeding calendar year of the Agreement. Notwithstanding the parties' agreement to such a plan, such agreement shall not extend the term of the Agreement if the five years of the plan extend beyond the normal termination date. The five year

Business Plans shall be subject to Miller's approval, which approval rights shall be exercised in good faith.

(b) An annual detailed Marketing Plan shall be submitted by IBI to Miller prior to the first commercial sale of Licensed Beer for the period prior to January 1, 2001 (and in any event by January 1, 2000), and thereafter not later than the first day of October prior to each succeeding calendar year of the Agreement. The annual Marketing Plans shall be subject to Miller's approval, which approval rights shall be exercised in good faith. Among other things, the annual Marketing Plans shall describe in detail the level of funding required, how marketing and advertising expenditures for Licensed Beer(s) shall be spent, what promotional programs are to be executed, and the like.

(c) Subject to Paragraph 4.5(b), IBI shall be solely responsible for the costs of marketing Licensed Beer(s) in the Territory and IBI will keep Miller informed of its progress in doing so.

4.5 Direct Marketing Expenditures.

(a) During each calendar year of the Agreement, over and above expenditure of any contribution supplied by Miller under Paragraph 4.5(b) for promoting Licensed Beer(s) in the Territory, IBI agrees to spend (or cause to be spent) at least those Direct Marketing Expenditures set forth on Schedule D in support of the Licensed Beer(s) in the Territory. When requested by Miller, IBI shall promptly submit to Miller such supporting documentation and reports relating to such expenditures as Miller may reasonably request.

(b) With respect to each calendar year of the Agreement before 2004, by thirty days after the latest of Miller receiving all Paragraph 3.2/3.3 payments due for a calendar year, the Paragraph 3.4(a) and (b) certificates, and the Paragraph 4.5(a) reports and documentation, Miller shall (subject to the next sentence and any required Indian governmental approvals) reinvest in the Licensed Beer business for the Territory (via direct expenditures by Miller or via payments to IBI for such purposes, or as provided below) the Schedule E amounts. However, Miller need only reinvest such sums to the extent necessary to meet the Marketing Plan spending amounts for the year (with respect to years 2000-2003) after accounting for the minimum spend required by IBI. In this regard, Miller may take as a credit against the reinvestment requirement for a year Miller's contributions (during the year for which the reinvestment applies) based on Miller's cost (including shipping) of point-of-sale, merchandise, specialized labeling and graphics costs, or other materials supplied by Miller to IBI or IBP during the year to promote Licensed Beer(s) in the Territory, and/or Miller's cost of Licensed Beer related specialized Indian market research costs and satellite or cable tv media buys for India.

4.6 Definitions. "Direct Marketing Expenditures" shall mean those marketing and advertising payments paid to non-affiliates of IBI or IBP. It shall mean net expenses and shall not include value added tax or, except to the extent expressly agreed to in writing by Miller, IBI or IBP employee or other overhead costs, or costs of price promotions such as free samples, bonuses and discounts.

Article V - Duration; Termination

5.1 Duration; Termination. This Agreement shall be effective upon execution, and shall thereafter continue until December 31, 2009 unless terminated earlier or renewed as provided below.

(a) If this Agreement is not otherwise terminated as provided below and IBI has met all Minimum Sales Goals pursuant to Schedule C for the period 2007-2009, IBI shall have the option to extend it through December 31, 2019 (subject to Miller having the right to negotiate a reasonable increase in the royalty rates applicable during the renewal period if Miller believes in good faith that the contract has been highly profitable to IBI or gross revenues per hectoliter of Licensed Beer received by IBP or IBI have increased from that received in the year 2000, and subject to the termination grounds specified below), by giving Miller notice by October 1, 2009 of its intent to do so. In such a case, all terms and conditions of the original term shall apply to the renewal term except for the yearly Minimum Sales Goals and Direct Marketing Expenditures, each of which shall be agreed to by the parties prior to each renewal year of the Agreement, and in any event shall not be less than the corresponding amounts specified for the year 2009 with at least 10% growth per year for each year thereafter for each amount.

(b) If IBI fails to meet any Paragraph 4.2 Sales Goal (regardless of whether best efforts to reach it were made), Miller may terminate this Agreement at any time by serving at least six months written notice on IBI of its intent to do so.

(c) If IBI fails to comply with any Paragraph 4.5 Minimum Direct Marketing Expenditure requirement, Miller may terminate this Agreement by serving IBI with at least three months notice of its decision to do so.

(d) While such a change shall not be deemed a breach, Miller may elect to terminate this Agreement effective upon written notice to IBI of its decision to do so if the voting ownership or control of IBI, IBP, or Mohan changes from its current ownership as specified on Schedule E so that control is obtained, directly or indirectly, by others than its current owners (e.g. a competitive U.S. brewer; nationalization). IBI shall promptly notify Miller of each such change.

(e) If the parties have not agreed to a current Paragraph 4.4(a) five-year Business Plan, or a current Paragraph 4.4(b) annual Marketing Plan, for any consecutive two-year period, Miller may terminate this Agreement by serving IBI with at least three months notice of its decision to do so.

(f) A party may treat this Agreement as breached, and may at any time terminate this Agreement immediately, for the following reasons:

(1) If the other party is insolvent or makes a general assignment for the benefit of creditors, shall have been adjudicated bankrupt, shall have filed a voluntary petition for bankruptcy, or for reorganization, or effectuated a plan or similar arrangement with creditors; or

(2) If there is a default by the other party under any provision of this Agreement, and that party shall have failed to completely cure the default within ninety days after the aggrieved party gives notice thereof; or

(3) If there are repeated (more than three) material defaults by the other party under any material provision of this Agreement within any twenty-four month period during the term of this Agreement (regardless of cure), the aggrieved party may within sixty days after the end of such period (or earlier) terminate this Agreement.

(g) This Agreement shall automatically terminate effective at the end of December 31, 2000 unless Miller either extends this deadline or all of the following are true:

(i) IBI must itself own, or IBP must own, or IBP must have a contract brewing agreement with, a fully operational brewery in the Territory providing an annual production capacity for Licensed Beer of at least 150,000 hectoliters of malt beverage as of December 31, 2000;

(ii) Miller must have approved a commercial scale test brew for at least one Licensed Beer pursuant to Paragraph 2.5 by December 31, 2000;

(iii) the distributor network for Licensed Beer in the Territory must have been approved by Miller by December 31, 2000 (such approval not to be unreasonably withheld); and

(iv) By December 31, 2000, Miller must have approved IBI's 2001 annual Marketing Plan for Licensed Beer(s) (such approval not to be unreasonably withheld).

5.2 Effect Of Termination. Termination under the preceding paragraph shall be without prejudice to any other rights the terminating party may have for a breach. Further, upon a termination under the preceding paragraph:

(a) IBI's (and its sublicensee's and contract brewer's/brewers') right to produce Licensed Beer(s) shall cease forthwith. After such termination, IBI shall destroy (and cause to be destroyed) the yeast purchased from Miller hereunder and not use or make (and shall prevent its sublicensee and contract brewer(s) from using or making) any reference to (i) the Marks or (ii) marks confusingly similar thereto, nor use (and shall prevent its sublicensee and contract brewer(s) from using) any label, package, promotional item, or product ornamentation with respect to the sale of any product of any kind whatsoever that is confusingly similar to the labels, packages, promotional items, or product ornamentation used in connection with the Licensed Beer(s), and (iii) not thereafter use (and shall prevent its sublicensee and contract brewer(s) from thereafter using) any Confidential Information of Miller.

(b) Miller shall be entitled to take all steps necessary for the removal of the name of IBI (and IBP) as authorized/registered users of the applicable Marks from all governmental registries without opposition or hindrance from either and IBI shall cooperate (and cause IBP to cooperate) by signing all necessary documentation submitted by Miller to effect this result (e.g. registered user cancellation agreements).

(c) IBI (and its Miller approved sublicensee) shall have three months after the date of termination to sell their existing inventory of Licensed Beer(s) in the normal course of business (subject to royalty payment and Paragraph 2.7(g) hereunder). However, IBI shall insure that Miller will have the option to purchase such inventory or any portion thereof at IBI's/IBP's cost, if it notifies IBI within ten days after termination of its intention to do so, and tenders prompt payment to the owner of the inventory.

(d) In any event, royalties for the period prior to termination shall be paid in a timely fashion regardless of termination.

(e) IBI and IBP shall not be entitled to any compensation, damages, payment for goodwill that may have been established, or any amount for any other cause by reason of an expiration of this Agreement (without a renewal), or a lawful termination by Miller pursuant to the terms of this Agreement.

<u>Article VI - General Terms of Agreement</u>

6.1 <u>Bookkeeping; Reports</u>. IBI agrees to create and maintain (and cause IBP to create and maintain) in English complete and accurate records and books of accounts covering IBI's obligations under this Agreement in the areas of Direct Marketing Expenditures, product expenditures, formulation, sales, revenues, and related expenditures. Each such record and book of accounts shall be retained by IBI and IBP for at least three years after its creation and, during that period, IBI shall insure that they are open to inspection and review by Miller or its authorized representatives at the premises of IBI and IBP at any time and, from time to time, during normal business hours. If any such audit leads Miller to discover that it has been underpaid, in addition to Miller's other rights, IBI shall immediately reimburse Miller for the cost of the audit. IBI shall also provide Miller with the following additional reports:

(a) IBI shall submit within thirty days after the end of each month of the Agreement complete and accurate details of the Sales of the Licensed Beer(s) and Direct Marketing Expenditures for Licensed Beer(s) for the month;

(b) IBI agrees to promptly report to Miller any non-routine correspondence received from any governmental agency, board, or official concerning the Licensed Beer(s), Marks, Recipe(s), brewing processes, containers, packaging or product dress, and promptly send copies of such correspondence to Miller; and

(c) IBI shall supply to Miller other reports relating to the Licensed Beer(s) in such form and containing such information as Miller may reasonably request.

6.2 Notification Of Infringement. During the term of this Agreement, if IBI becomes aware of any infringement or threatened infringement of the Marks in the Territory, or any improper disclosure or threatened improper disclosure of Miller's Confidential Information in the Territory, or any violation or threatened violation relating to the Marks or the Licensed Beer(s) of any law of the Territory providing for protection against passing off (or conferring analogous rights), or of any application by any third party to register in the Territory a trademark the same as or confusingly similar to the Marks, then IBI shall forthwith notify Miller giving the particulars thereof.

6.3 Decision To Initiate Proceedings. Miller shall have the sole and exclusive right to determine whether or not any action should be taken regarding the activities referred to in Paragraph 6.2, and the cost of any such proceedings or action shall be at the expense of and under the exclusive control of Miller. Upon request by Miller, IBI shall (and shall cause IBP to) take action, join in an action, and otherwise provide Miller with such assistance and information as may be useful to Miller in connection with Miller's taking such action, even after termination of the Agreement (if the cause of action arose during the Agreement term and Miller reimburses them for their reasonable expenses in connection therewith).

6.4 IBI Warranties. IBI warrants to Miller that:

(a) It will acquire and maintain (and/or cause IBP to acquire and maintain) at their own cost and expense all licenses, permits and other authorizations necessary for the operation of a brewery and production of Licensed Beer(s) in the Territory, the sale of the Licensed Beer(s) in the Territory, and the performance of other IBP obligations hereunder. Moreover, IBI warrants that it will cause IBP to have the legal right and power to engage directly in the introduction of foreign technology into the Territory;

(b) It and IBP will comply with all applicable laws, executive regulations and other governmental orders in carrying out IBI obligations under this Agreement (including without limitation obtaining all necessary Indian approvals relating to the sublicensing and subcontracting contemplated herein);

(c) There are no pending or threatened lawsuits, proceedings, claims, governmental actions, prior contracts or investigations which could in any way materially affect the performance of IBI obligations hereunder;

(d) It will use its best efforts during the Agreement term so as not to become involved (and prevent IBP and Mohan from becoming involved) in any situation or occurrence which brings them into public disrepute, contempt, scandal or ridicule, or which tends to shock, insult, or offend the community or which reflects unfavorably upon the reputation of Miller's products; and

(e) It will obtain and maintain during the Agreement term product liability insurance covering its activities hereunder in at least the foreign or U.S. currency equivalent of One Million U.S. Dollars. Such policy shall be in a form acceptable to Miller, from a company acceptable to Miller, naming Miller and its corporate parent as additional insureds. IBI shall file with Miller certificates of such insurance and shall promptly pay all premiums on said policies as and when the same become due. In addition, said policies shall contain a provision requiring thirty days prior written notice to Miller of any proposed cancellation, modification or termination of such insurance.

6.5 <u>Miller's Warranties</u>. Miller warrants to IBI that:

(a) It owns (or will attempt to acquire) the Indian rights to the Schedule A Marks, the Recipe(s) therefor, and the Confidential Information relating thereto;

(b) It will acquire and maintain, at its own cost and expense, all licenses, permits and other authorizations necessary for the performance of its obligations hereunder (it being understood that Miller bears no obligation to obtain any Indian governmental approvals, obtaining such approvals - if required - being the responsibility of IBI);

(c) It will comply with all applicable United States laws, United States executive regulations and other United States governmental orders in carrying out its obligations under this Agreement;

(d) There are no pending or threatened lawsuits, proceedings, claims, governmental actions, prior contracts or investigations which could, in any way, materially affect the performance of Miller's obligations hereunder;

(e) It will use its best efforts during the Agreement term so as not to become involved in any situation or occurrence which brings it into public disrepute, contempt, scandal or ridicule, or which tends to shock, insult or offend the community or which reflects unfavorably upon the Licensed Beer(s); and

(f) Miller is unaware of any patents or other third party rights which would restrict IBI's use of the Recipe(s) or Confidential Information in the Territory pursuant to this Agreement.

6.6 Express Limitations On Liability. The following risks are hereby assumed by IBI and the parties agree that:

(a) Except as provided in Paragraph 6.5(a), all advertising liability type claims relating to Licensed Beer advertised by IBI (or IBP or their contract brewer(s)) shall be the sole responsibility of IBI;

(b) All product liability type claims regarding Licensed Beer produced by IBI (or IBP or their contract brewer(s)) shall be the sole responsibility of IBI (except where, and to the extent, it can be established by clear and convincing evidence that a defect present at the time of delivery by Miller to the shipper in Miller supplied hop extract or culture yeast caused the problem);

(c) Other than stating that it is unaware of any third party rights applicable in the Territory which would restrict IBI usage of the Recipe(s) in the manner contemplated herein, Miller does not make any warranties or representations regarding whether use of the Recipe(s) will be free from rights owned by third parties;

(d) Miller does not make any warranties regarding whether the ingredients in the Recipe(s) will be approvable by any government having jurisdiction over the Territory. IBI shall be responsible for obtaining all necessary approvals in this regard (e.g. either directly or through IBP or Mohan), but, if such approvals cannot be obtained for the disclosed Recipe(s), IBI shall propose modifications to such Recipe(s) to meet government requirements, subject to Miller's approval of each said modification; and

(e) Miller does not make any warranties regarding whether any comments or advice it may, in its discretion, provide to IBI or its designees regarding how to operate a brewery will be of assistance, helpful to, or work well for them.

6.7 Indemnification By IBI. IBI shall at all times during the term of this Agreement and, at all times after the termination hereof, indemnify and hold harmless Miller from and against all damages, costs and expenses (including all legal fees) incurred by Miller arising out of:

(a) a breach of any of IBI warranties, promises or covenants hereunder;

(b) any advertising liability type claims against Miller relating to Licensed Beer advertised by IBI or IBP or their contract brewer(s) (except where due to a claim by a third party that it has rights to the Mark); and/or

(c) any product liability type claim relating to Licensed Beer supplied by IBI, IBP or their contract brewer(s), except where, and to the extent, it can be established by clear and convincing evidence that a defect present at the time of shipment by Miller of hop extract or culture yeast caused the problem.

6.8 Indemnification By Miller. Miller shall, at all times during the continuance of this Agreement, and at all times after the termination hereof indemnify and hold harmless IBI from and against all damages, costs and expenses (including all legal fees) incurred by IBI arising out of a breach of any of Miller's warranties, promises or covenants hereunder.

6.9 Advertising.

(a) Miller shall use reasonable efforts to make available to IBI samples of its advertising which have been publicly used in the United States (or another relevant market) for advertising the Licensed Beer(s) for adaptation by IBI during this Agreement to advertise Licensed Beer(s) in the Territory. IBI acknowledges, however, that, prior to actual usage, IBI may have to obtain consents at IBI's own expense from third parties who own rights in (or the right to control) the advertising. The use of such advertising and any adaptation of such advertising for the Territory market shall be subject to Miller's approval (and possibly also the rights of third parties). In connection with such activities, IBI shall take all precautions necessary to protect Miller's copyrights in Miller's advertising including using appropriate international copyright notices.

(b) At no additional charge to Miller, should IBI or IBP (or their agencies) develop any new advertising for the Licensed Beer(s) during the term of this Agreement, IBI hereby grants (and shall cause IBP to grant to) Miller a worldwide, perpetual, non-exclusive, and royalty free right to use such advertising. Miller acknowledges, however, that, prior to actual use, it may have to obtain consents at its own expense from third parties who own rights in the advertising and, provided that Miller shall take all necessary precautions to preserve IBI's copyrights (e.g., including using appropriate international copyright notices), in connection with the advertising it uses.

6.10 Improvements. Nothing herein is intended to grant any rights to IBI with respect to improvements in the technology that are discovered or applied by Miller after the execution date of this Agreement. However, to the extent confidential improvements are disclosed by Miller to IBI, they shall be treated as Confidential Information.

6.11 Other Business Activities. IBI warrants that during the term of this Agreement, except as permitted herein, neither it, nor IBP, nor Mohan will directly or indirectly produce or sell in India any non-Indian origin brands of beverage, except those permitted by Miller hereunder, and except for the following brands pursuant to an agreement existing as of July 31, 1999: "Pabst Blue Ribbon", "Pabst Genuine Draft", and "Pabst Ice Beer". Further, IBI warrants that during the term of this Agreement, except as permitted herein, neither it, nor IBP, nor Mohan will directly or indirectly produce or sell in India any malt beverage which has adopted substantially the overall look and marketing feel of a brand licensed hereunder (e.g. a knockoff).

6.12 Default By Related Companies. Any act or omission which, if it were an act or omission of a party to this Agreement, would be a breach of this Agreement, shall be deemed to be such an act or omission for which that party is responsible if done or omitted by any affiliate of the party. As defined herein, an affiliate is one controlled (to a greater than 50% extent), either directly or indirectly, by the party, or a parent of the party.

6.13 No Partnership Or Agency. It is hereby agreed and declared that, with respect to this Agreement, Miller and IBI are independent contractors and are not partners or agents of each other. Further, neither has the authority to bind the other by contract, declaration, admission or otherwise (except to this Agreement and other agreements mutually agreed to in writing).

6.14 Binding Effect; Assignment. Neither party shall assign or sublicense this Agreement or any part of their interest therein without the written consent of the other, except that Miller may assign its rights hereunder to a successor to its business or to an affiliate even without such consent, and except that Miller will not unreasonably refuse to consent to the sublicensing of this Agreement to IBP, and Miller will not unreasonably refuse to consent to IBP using Mohan or an IBP wholly-owned subsidiary as a contract brewer. No such assignment or sublicense will relieve the assignor of its obligations hereunder.

6.15 Conformity With Law. This Agreement shall not be construed as contemplating any act or prohibition to act which would violate the laws or regulations of any relevant province or country.

6.16 Notices; Reports; Approvals. Notices, reports and approvals to be furnished hereunder shall be in writing, shall be to the addresses specified below, and shall be presumed given when hand delivered, or when faxed to the other party's fax number as specified below. All communications between the parties pursuant to this Agreement shall be in English.

(a) Unless IBI otherwise notifies Miller in writing of other addresses and/or persons, notices, reports and approvals to IBI shall be to the attention of Vice President, Corporate Affairs, at the address listed in the preamble to this Agreement (or fax # 416-369-0515).

(b) Unless Miller otherwise notifies IBI in writing of other addresses and/or persons, notices, reports and approvals to Miller shall be to the attention of Vice President – International at the address listed in the preamble to this Agreement (or fax # 414-931-3571).

6.17 Entire Agreement. Except as the parties may otherwise agree in writing, this Agreement, including the attached schedules, contains the entire understanding of the parties with respect to the subject matter contained herein, and may be amended only by written instrument duly executed by the parties or their respective permitted successors or assigns.

6.18 Waiver. No claim or right arising out of a breach of this Agreement may be discharged, in whole or part, by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party and no waiver of any breach of this Agreement shall be deemed a waiver of any continuing or subsequent breach.

6.19 <u>Severability</u>. In the event that this Agreement, or any of its provisions, or the performance of any provision, is found to be illegal or unenforceable under applicable law or a regulation of a government of the Territory or the United States now or hereafter in effect, the parties shall be excused from performance of such portions of this Agreement as shall be found to be illegal or unenforceable under the applicable laws or regulations, without affecting the validity of the remaining provisions of the Agreement, provided that such provision shall be reformed so as to comply with the requirements of the applicable valid law or regulation so as to the greatest lawful extent reflect the original intention of the provision.

6.20 <u>Counterparts</u>. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

6.21 <u>Time Is Of The Essence</u>. Time is of the essence concerning the times, dates and periods described herein.

6.22 <u>Dispute Resolution</u>.

(a) The parties shall make a good faith effort to promptly resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute"). Miller's and IBI's designated representatives shall attempt to resolve all Disputes by negotiation. In the event that a Dispute cannot be resolved promptly by Miller and IBI's representatives, each party shall immediately designate a senior executive with authority to resolve the Dispute. The senior executives shall use good faith efforts to try to resolve the Dispute without resort to litigation within a 30 day period of the referral to them. However, in the event they fail to do so, the remainder of this paragraph shall apply.

(b) In the event that the Paragraph 6.22(a) procedures fail to reach a resolution of the Dispute, any Dispute (e.g. arising under this Agreement or any claim affecting its validity, construction, effect, performance or termination) shall initially be determined by suit filed in a federal or state court located in the City of Milwaukee, State of Wisconsin, U.S.A. Objections with respect to jurisdiction or venue as specified in this subparagraph are hereby waived by the parties. The internal law of the U.S.A. (except for the dealership laws of the State of Wisconsin, Chapter 135) shall govern the dispute.

(c) BOTH PARTIES HEREBY WAIVE ANY RIGHT TO A JURY IN ANY LITIGATION RELATING TO THE VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE, OR TERMINATION OF THIS AGREEMENT.

6.23 Calendar. The dates, months and calendar years referred to herein are Gregorian dates, months, and years.

6.24 Language. To the extent that a translation of this Agreement is created to facilitate government approvals or for other purposes, the English version shall be deemed to govern in the event of an inconsistency between the meaning of the English and other versions.

IN WITNESS WHEREOF, the undersigned parties have duly executed this Agreement in a manner appropriate to each.

MILLER BREWING COMPANY

By: Richard E. Str... (SEAL)
Title: SVP

INDIA BREWERIES INC.

By: Steven Judge (SEAL)
Title: President

Schedule A - Licensed Beer(s) And Marks

Licensed Beer(s)

Miller High Life
Miller Pilsner
Miller Beer

It is also possible that Miller may be willing to designate a "Miller Strong" brand beer as additional Licensed Beer(s). However, the decision to make such additional designations shall be at Miller's discretion.

Marks	Registration/Application Number
Miller High Life	
Miller	

Schedule B - Territory

India

Schedule C - Minimum Sales Goals

2000	30,000	hectoliters
2001	45,000	hectoliters
2002	60,000	hectoliters
2003	75,000	hectoliters
2004	100,000	hectoliters
2005	125,000	hectoliters
2006	150,000	hectoliters
2007	200,000	hectoliters
2008	250,000	hectoliters
2009	300,000	hectoliters

Thereafter, if applicable, per Paragraph 5.1(a)

Schedule D

IBI agrees to make (and/or cause IBP to make) at least the following Direct Marketing Expenditures for Licensed Beer(s) in the Territory.

Year	Amount (Indian Rupees)
2000	1,000,000
2001	2,000,000
2002	3,000,000
2003	4,000,000
2004	5,000,000
2005	5,000,000 or as the parties may otherwise agree
2006	5,000,000 or as the parties may otherwise agree
2007	5,000,000 or as the parties may otherwise agree
2008	5,000,000 or as the parties may otherwise agree
2009	5,000,000 or as the parties may otherwise agree

Thereafter, if applicable, per Paragraph 5.1(a)

Expenditures in other than Indian Rupees in a calendar quarter shall be converted for purposes of this requirement to Indian Rupees based on the exchange rate for buying Indian Rupees published in the International Edition of the Wall Street Journal (or, if that rate is not published, the rate in the International Herald Tribune or, if that rate is not published, the rate quoted by a large Bombay, India bank selected by Miller) on the last business day of the calendar quarter for which the expenditures are made.

Schedule E - Miller Marketing Contribution

Subject to and under the conditions of Paragraph 4.5(b), Miller's marketing contribution for Licensed Beer(s) in the Territory shall be the following amounts.

Year	Amount
2000	100% of royalty received on up to Schedule C volume for year
2001	100% of royalty received on up to Schedule C volume for year
2002	100% of royalty received on up to Schedule C volume for year
2003	100% of royalty received on up to Schedule C volume for year

Nothing thereafter

Schedule F - Ownership

Owners of IBI:

	Name	Percentage Of Voting Ownership
1.	Steven Judge	56%
2.	Peter Harvey	27%
3.	Jasdeef Toor	15%
4.	Rajeshwar Bal	2%

Owners of IBP:

	Name	Percentage Of Voting Ownership
1.	IBI	50%
2.	Mohan	50%

Owners of Mohan:

	Name	Percentage Of Voting Ownership
1.	Brig. Kapil Mohan	60%
2.	Other Shareholders*	40%

*where none of the other shareholders is a person or entity owning an interest in a liquor or malt beverage producer apart from Mohan and IBP

Schedule G - Right Of First Refusal Countries

Bhutan
Pakistan
Maldives
Bangladesh
Nepal
Myanmar

Side Letter

WHEREAS a "License Agreement" is being entered into relating to commercialization of certain brands of malt beverage in India and possibly certain other countries by and between MILLER BREWING COMPANY, a Wisconsin corporation with its principal offices located at 3939 West Highland Boulevard, Milwaukee, Wisconsin 53208 U.S.A. ("Miller"), and India Breweries Inc., an Ontario company having its principal offices located at 1 Yonge Street, Suite 1801, Toronto, Ontario, Canada M5E 1W7 ("IBI");

AND WHEREAS Miller and IBI wish to clarify their understanding relating to royalties payable as a result of such activities;

NOW THEREFORE, in consideration of Miller agreeing to enter into the License Agreement, IBI agrees as follows:

1. If in any calendar year of the License Agreement after 2000, Sales for the Territory market (as those terms are defined in the License Agreement) do not equal the Schedule C Minimum Sales Goal therefor (as specified in the License Agreement), then the Paragraph 3.2(a) (of the License Agreement) royalties for the year will instead be calculated as if such Sales had been made, with extra royalties being paid with the fourth quarter payment (based on the missing volume times the royalty rate applicable to actual Sales during that year).

2. Further, if a termination of the License Agreement is by Miller pursuant to Paragraph 5.1(c), (e), (f)(2), or (f)(3) of the License Agreement, even after termination IBI shall be responsible for paying the above minimum royalties to Miller (as if the License Agreement had not been terminated).

MILLER BREWING COMPANY

By: Richard F. Stap (SEAL)
Title: SVP

INDIA BREWERIES INC.

By: Steven Judge (SEAL)
Title: President

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