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11 Orit Entertainment, Inc.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14 **BC519632**

15 OCTAVIA LENORA SPENCER, a California
16 resident and ORIT ENTERTAINMENT, INC.,
17 an Alabama corporation,

Case No.:

COMPLAINT FOR:

18 Plaintiffs,
19 vs.

- 1. BREACH OF WRITTEN CONTRACT
- 2. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING
- 3. FRAUD
- 4. ACCOUNTING

20 SENA PRODUCTS, LLC, a Delaware
21 limited liability company and DOES 1 through
22 50, inclusive,

23 Defendants.

BY FAX

1 Plaintiffs Octavia Lenora Spencer ("Spencer"), an individual and Orit Entertainment, Inc.,
2 an Alabama corporation ("Orit") (Spencer and Orit are collectively referred to herein as, the
3 "Plaintiffs" or the "Spencer Parties"), complain against defendants SENSEA PRODUCTS, LLC, a
4 Delaware limited liability company ("SENSEA" or "Defendant") and DOES 1-50, as follows:

5 INTRODUCTION

6 1. SENSEA manufactures and markets a diet product designed to trick one's brain.
7 Therefore, it's not surprising that it would manufacture allegations against its most prominent
8 spokesperson, Octavia Spencer.

9 2. After its recent marketing and public relations campaign flopped, SENSEA looked
10 for ways to get out of its endorsement deal with Spencer: It blamed Spencer for its own
11 shortcomings. It "suggested" to Spencer that she walk away from approximately \$700,000
12 remaining on her million dollar contract. And, after Spencer sent SENSEA a notice of breach for
13 failing to make payment to her, SENSEA fabricated an after-the-fact breach of the endorsement
14 agreement.

15 3. Despite SENSEA's shocking acts of bad faith, Spencer will not walk away.

16 PRELIMINARY ALLEGATIONS

17 4. Plaintiff Spencer is, and at all times herein mentioned was, an individual who
18 resides in Los Angeles, California and conducts business in Los Angeles County, California.
19 Spencer is an award winning television and motion picture actress who is best known for her
20 Academy Award winning role as Minny Jackson in the motion picture, *The Help*.

21 5. Plaintiff Orit is an Alabama corporation authorized to do business in the State of
22 California. Orit is Spencer's loan-out company.

23 6. Upon information and belief, the Spencer Parties allege that defendant SENSEA is
24 a Delaware limited liability company authorized to do business in the State of California. Upon
25 information and belief, the Spencer Parties allege that SENSEA is the founder of the SENSEA®
26 Weight Loss System as well as other health and wellness products. The *sensa.com* website states
27 that "*SENSEA® is based on the powerful science of 3 patents and over 25 years of research. It*
28 *has NO drugs, NO pills, NO surgery. Over 5 million people have said, 'YES' to SENSEA® the*

1 ORIGINAL Sprinkle Diet." Sensa.com also states that it is the "#1 weight-loss system in
2 America."

3 7. The true names and capacities, whether individual, corporate, associate or
4 otherwise of the defendants named herein as Does 1 through 50, inclusive, are unknown to
5 Spencer Parties which therefore sue said defendants by such fictitious names. The Spencer
6 Parties allege on information and belief that each of the defendants, including those designated
7 as a Doe, are also responsible for the events alleged herein and the damages caused thereby as a
8 principal, agent, co-conspirator or aider and abettor. The Spencer Parties will seek leave of this
9 Court to amend this Complaint to allege the true names and capacities of such defendants when
10 the same have been ascertained.

11 8. SENSEA and Does 1-50 will be collectively referred to herein as the "Defendants."

12 9. Upon information and belief, the Spencer Parties allege that Defendants at all
13 times relative to this action, were the agents, servants, partners, joint venturers and employees of
14 each of the other Defendants and, in doing the acts alleged herein, were acting with the
15 knowledge and consent of each of the other Defendants in this action.

16 10. Venue is proper in Los Angeles County in that the obligations that are the subject
17 of this action were to be performed in Los Angeles County. Moreover, the written contract at
18 issue in this action specifically states that the contract is "deemed made, entered into in Los
19 Angeles, California, and will be performed in Los Angeles, California. Each of the parties
20 hereto hereby irrevocably consents and submits to the exclusive jurisdiction of the state and
21 federal courts, as applicable, located within the County of Los Angeles..." As such, this Court
22 is the proper Court for trial of this action.

23 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

24 **A. Spencer Discusses Entering into an Endorsement Deal with SENSEA.**

25 11. On or about January 24, 2012, SENSEA provided Spencer with the SENSEA
26 product and asked her to try it. Spencer began losing weight and noticed that the SENSEA
27 product also curbed her appetite.

28 12. On or about February 2, 2012, Garrett Smith ("Smith") of Starpower, Inc.

1 (“Starpower”), a marketing and public relations consultant hired by SENSEA to find celebrity
2 talent for the SENSEA brand, approached Spencer’s talent agent to discuss Spencer becoming a
3 spokesperson for SENSEA.

4 13. Spencer entertained the idea of becoming SENSEA’s next spokesperson because
5 she realized a five (5) pound weight loss during the time she was on the product and thought that
6 the product may help other women who had weight issues.

7 14. From approximately February 2 through February 27, 2012, Spencer’s agent
8 engaged in preliminary discussions with SENSEA regarding Spencer’s role as SENSEA’s next
9 spokesperson.

10 15. On or about February 29, 2012, Spencer and her representatives met face-to-face
11 with executives from SENSEA and Starpower to discuss SENSEA’s desire to enter into an
12 endorsement agreement with Spencer (“Initial Endorsement Meeting”). Those in attendance
13 included, among others, Smith and Jared Weiss (“Weiss”) of Starpower; Brett Brewer, SENSEA’s
14 CEO (“Brewer”); Kristin Chadwick, SENSEA’s president (“Chadwick”); Katelyn O’Reilly,
15 SENSEA’s Public Relations Director (“O’Reilly”) and Don Ressler, the Founder of SENSEA and
16 Intelligent Beauty (“Ressler”).

17 16. Prior to, and during the Initial Endorsement Meeting, Spencer and her
18 representatives made it clear to SENSEA that Spencer was interested in living a “healthier
19 lifestyle” and was not interested in significant weight loss. During the Initial Endorsement
20 Meeting, Spencer also made it clear to SENSEA that she did not like SENSEA’s prior advertising
21 campaigns which centered on significant weight loss and placed advertisements, advertorials and
22 editorials in tabloid magazines and tabloid/ gossip websites. Prior to and during the Initial
23 Endorsement Meeting, the Spencer Parties and their representatives made it clear to SENSEA that
24 the Spencer Parties would only agree to enter into an endorsement deal if SENSEA agreed to the
25 following conditions:

26 i. Spencer would not do a campaign focused on extreme weight transformation.
27 Instead, the campaign’s needed to focus on Spencer living a “healthier
28 lifestyle.”

- 1 ii. Spencer's weight loss goal was 20-25 lbs. only. She did not want significant
2 weight loss.
- 3 iii. Spencer would not permit "before & after" photographs of her to be placed in
4 any advertisement, advertorial or editorial.
- 5 iv. Spencer would not agree to any of her SENSEA advertisements, advertorials
6 and/or editorials in tabloid/ gossip magazines and tabloid/ gossip websites.
7 She would not do any infomercials.
- 8 v. Spencer required complete and final approval on all creative elements in the
9 advertisements, advertorials and editorials, including what media outlets they
10 would be placed.

11 (Paragraphs i – v are collectively referred to herein as, the "Spencer Requirements").

12 17. During the February 29, 2012 Initial Endorsement Meeting, in response to the
13 Spencer Requirements, SENSEA executives Brewer, Chadwick and O'Reilly each assured the
14 Spencer Parties that SENSEA would honor the Spencer Requirements (the "SENSEA Assurances").

15 18. Based on the SENSEA Assurances, the Spencer Parties and their representatives
16 negotiated an endorsement contract and addendum to that contract from approximately February
17 29, 2012 through January 29, 2013. During the entire negotiating process, the Spencer Parties
18 and their representatives repeatedly reiterated the Spencer Requirements. SENSEA executives
19 repeatedly confirmed the SENSEA Assurances.

20 19. During the negotiation process of the Agreement, from April to May 2012, the
21 Spencer Parties informed SENSEA that Spencer had a \$3 million dollar endorsement offer from
22 one of SENSEA's major competitors and informed SENSEA that it would pass on the \$3 million
23 dollar endorsement offer from the SENSEA competitor based in large part on the SENSEA
24 Assurances.

25 **B. Spencer Enters into an Endorsement Agreement with SENSEA.**

26 20. In reliance on the SENSEA Assurances, on or about September 10, 2012, an
27 "Endorsement Agreement," dated August 17, 2012, was entered into by and between SENSEA
28 and Falcon Enterprises, Inc. ("Falcon"), in conjunction with Sourcequest Communications

1 (“Sourcequest”)¹, on the one hand, and Orit, for the services of Spencer, on the other hand (the
2 “Endorsement Agreement”). Pursuant to the Agreement, SENSEA engaged Spencer to endorse
3 SENSEA products. A true and correct copy of the Endorsement Agreement is attached hereto as
4 Exhibit “A” and incorporated herein by this reference.

5 21. On or about January 29, 2013, the parties entered into a “First Amendment to
6 Endorsement Agreement (the “Amendment”) (Endorsement Agreement and Amendment
7 collectively referred to as, the “Agreement”). A true and correct copy of the Amendment is
8 attached hereto as Exhibit “B” and incorporated herein by this reference.

9 22. SENSEA entered into the Agreement with Orit (referred to as “Lender” in the
10 Agreement) for the direct benefit of Spencer (referred to as “Artists” in the Agreement).

11 23. Pursuant to paragraph 3.1(e) of the Agreement, entitled “Social Media Legal
12 Compliance:” Orit shall:

13 “ensure that all social media content created and/ or published by
14 [Orit] or [Spencer] comply with all relevant laws, regulations
15 and rules including, without limitation the Federal Trade
16 Commission (FTC) Guidelines concerning the use of endorsements
17 and testimonial in advertising (**i.e., including disclosure language**
18 **such as #SPON**). [SENSEA] shall provide [Orit] and [Spencer]
19 with guidelines for such compliance and [SENSEA] shall ensure
20 that any and all social media content created and/ or published by
21 [SENSEA] complies with all relevant laws, regulations and rules,
22 including without limitation the FTC Guidelines concerning the
23 use of endorsements and testimonials in advertising.”

24 (See Agreement, ¶3.1(e) (emphasis added)).

25 24. Pursuant to paragraph 3.5 of Agreement entitled “Approval Rights,” Spencer has
26 approval rights for any and all uses of her persona, including without limitation, approval over
27 all creative, as well as the right to approve all public relations outlets, public relations services,
28

¹ Falcon and Sourcequest are third party payroll companies.

1 director(s) photographer(s), scripts, concepts and storyboards within three (3) business days. (See
2 Endorsement Agreement, ¶3.5(a))

3 25. Pursuant to the terms of the Agreement, SENSEA, through Falcon, is required to
4 pay Orit a total of \$1,250,000 in "service fees" over the life of the Agreement, made payable
5 (after a \$100,000 initial payment) in monthly installments of \$95,833.33 on the 1st day of each
6 month from February 1, 2013 through February 1, 2014. (See Amendment, ¶5.1)

7 26. Paragraph 5.3 of the Agreement is entitled "Charitable Donation." Pursuant to the
8 terms of paragraph 5.3, SENSEA is also required to make a \$100,000 donation to a foundation
9 established by Spencer to fight childhood obesity. (See Endorsement Agreement, ¶5.3)

10 27. Paragraph 5.10 of the Agreement is entitled "Audit." Paragraph 5.10(a) states
11 that Orit "shall have the right, upon at least five (5) days written notice and no more than once
12 per calendar year, to inspect ~~[[SENSEA's]]~~ books and records with respect to the subject matter of
13 this Agreement at ~~[[SENSEA's]]~~ then-current principal office or other location reasonably
14 designated by ~~[[SENSEA]]~~. ~~[[Orit]]~~ shall be permitted to make copies thereof and extracts
15 therefrom."

16 28. Paragraph 5.10(c) requires SENSEA "to render to ~~[[the Spencer Parties]]~~ semi-
17 annual statements showing a summary of Channel Profits and permitted deductions."

18 **C. The Spencer Parties Fully Perform Their Obligations Under the Agreement.**

19 29. Spencer Timely Reviewed All Approvals. Spencer consistently used good faith
20 efforts to cooperate with SENSEA to participate in the marketing, advertising, promotion,
21 publicity and sales of the SENSEA product line. Although paragraph 3.5(a) of the Agreement
22 gave Spencer three (3) business days to approve or deny creative advertising relating to the use
23 of Spencer's persona, Spencer and her team approved dozens of SENSEA's creative materials
24 within a twenty-four (24) period. Many times a quick turnaround was difficult for Spencer as
25 she was traveling, filming and attending special events. Despite her busy schedule, she always
26 managed to provide timely approvals on the SENSEA submissions. In fact, SENSEA often praised
27 Spencer and her representatives' efforts on their quick turnaround time.

28

1 30. Spencer's Twitter Tweets Are Consistent with the Terms of the Agreement.

2 Pursuant to paragraph 3.1(c)(iv) of the Agreement, Spencer was required to provide two posts
3 via social media every month. Spencer fully honored her posting requirements. Spencer's
4 tweets are set forth below. These tweets clearly show that Spencer praised the SENSEA product
5 line and that she was a fan and regular user of SENSEA.

6 2/21/13 In NYCw/@sensaweightloss. Lost 20 lbs. :0 SENSEA changed my life not
7 my lifestyle. #spon

8 2/24/13 Having breakfast w/ the glam squad, sprinkling LOL then getting ready
9 for the final red carpet @SensaWeightloss u rock! #spon

10 3/04/13 Just had the best breakfast meatless sausage, banana pancakes, sensa!
11 @SensaWeightloss!!!! #spon

12 3/11/13 Now what am I having for breakfast so I can sprinkle it!!!
13 @SensaWeightloss #spon

14 4/11/13 @SensaWeightloss Bowl of steel cut oatmeal. Check. Berries. Check.
15 Smile. Check check! Sprinkle Sprinkle #spon²

16 4/23/13 Bet you've seen my @SensaWeightloss commercials & wondered if it's
17 the real deal? I'm here to say it works! #spon bit.ly/osblog

18 5/03/13 @SensaWeightLoss Ask me how I'm getting ready 4 the red carpet at
19 Cannes... #Sensa of course! #spon³

20 5/22/13 @SensaWeightloss A lot of you have asked does sensa really work for
21 me. for more on the story check this out! #spon
22 <http://blog.trysensa.com/index.php/octavia-spencer-sensas-a-life-saver-when-im-on-the-go/> ...⁴

23 6/11/13 i've gotten so many ??? about this outfit. LOL!!! blouse: DVF, jeans:
24 Torrid, shoes: Atwood, body @SensaWeightloss

27 ² This tweet was subsequently deleted from Spencer's Twitter feed by an unknown person.

28 ³ This tweet was subsequently deleted from Spencer's Twitter feed by an unknown person.

⁴ This tweet was subsequently deleted from Spencer's Twitter fced by an unknown person.

1 http://www.justjared.com/photo-gallery/2885452/kerry-washington-
2 octavia-spencer-sundance-institute-event-05/ ...
3 6/22/13 A lot of press this week, very little time to work out. Thank goodness for
4 @SensaWeightloss fb.me/2MjuNrbY
5 7/17/13 walking thru the mall I hear is that her, the lady from the Help, answer:
6 No she's too "skinny". Thanks @SensaWeightloss #mademyday #spon
7 7/23/13 thanks @SensaWeightloss! Losing weight never tasted so good!
8 #flourlesschocolatecake #spon

9 **D. The Spencer Parties Go Above and Beyond Their Contractual Obligations.**

10 31. In an effort to be a good partner to SENSEA, Spencer went above and beyond what
11 was required of her under the Agreement. Although she vehemently opposed the use any
12 advertisements, advertorials or editorials that contained "before & after" photographs of her
13 weight loss, Spencer added language to Agreement by way of the January 29, 2013, Amendment
14 that gave SENSEA the right to use "before and after" photographs if Spencer approved. Although
15 she consistently stated that she did not want to have a campaign that used such photographs,
16 Spencer approved the use of such "before & after" photographs on two separate occasions (on or
17 about 4/10/13 and 5/17/13).

18 32. Additionally, despite her stance against using her advertisements, advertorials and
19 editorials in tabloid magazines and websites, Spencer approved the use of her advertisements in
20 tabloid magazines on several occasions.

21 33. Although she stressed her reluctance to do a campaign that focused on her weight
22 loss, after receiving constant requests from SENSEA, Spencer agreed to add language to the
23 Agreement, by way of the Amendment, that permitted SENSEA to reference Spencer's weight
24 loss in all of SENSEA's creative material.

25 **E. SENSEA Executives Constantly Praise Spencer's Performance Under the**
26 **Agreement.**

27 34. Throughout the SENSEA campaign, SENSEA's executives praised Spencer and the
28 Spencer Parties' team's efforts. At the conclusion of Spencer's commercial shoot on January 29,

1 2013, Chadwick told Spencer that the shoot was “wonderful” and that Spencer’s “spot was
2 amazing.” On February 11, 2013, after Spencer’s photo shoot, O’Reilly informed Spencer’s
3 talent agent how “amazing” Spencer looked in the photos and how easy the photo shoot went.
4 On February 25, 2013, O’Reilly informed Spencer’s agent that the February 21, 2013 “PR Day”
5 with CNN, The View, Access Hollywood, New York Live, E, Glamour.com and Extra was
6 “great” and that Spencer gave “amazing interviews.”

7 35. It is undisputed that the Spencer Parties performed all of the duties and
8 responsibilities required of them under the Agreement. In fact, apart from the August 6, 2013
9 termination letter (to be discussed below), there is no written communication by SENSEA stating
10 that the Spencer Parties are in breach of the Agreement.

11 36. Despite her hectic schedule traveling and attending events and filming movies all
12 over the world, Spencer or one of her representatives was always available to timely approve
13 SENSEA creative materials and/ or discuss and strategize the SENSEA campaign. Spencer Parties
14 diligently worked hundreds of hours to schedule Spencer’s non-SENSEA commitments around
15 her SENSEA commitments: SENSEA media day, media training, production and training sessions.

16 **F. SENSEA Admits that the Campaign is Not Successful and SENSEA Requests**
17 **Assistance from the Spencer Parties to Help Create a New Campaign**

18 37. Starting in or around April 2013, SENSEA executives and consultants admitted to
19 the Spencer Parties and their representatives that the SENSEA campaign was not living up to
20 expectations. On April 11, 2013, Weiss (Starpower) informed Spencer’s talent agent that
21 SENSEA did not like Spencer’s April 11 tweet. During that conversation, Weiss stated that the
22 “overall campaign has not been successful for SENSEA and they are unhappy with the results.”
23 Weiss then requested that Spencer’s agent and publicist attend a meeting at SENSEA’s offices to
24 “help strategize” about ways to use Spencer better and improve the campaign. During this
25 conversation, Weiss never mentioned that SENSEA considered Spencer in breach of the
26 Agreement.

27 38. On April 25, 2013, O’Reilly informed Spencer’s agent that sales have not been
28 good for the brand since they started using Spencer. During this conversation, O’Reilly never

1 mentioned that SENSEA was displeased with Spencer or that it considered Spencer in breach of
2 the Agreement.

3 39. On May 6, 2013, Weiss against asked Spencer's agent and publicist to help
4 SENSEA come up with additional ideas about how SENSEA could utilize Spencer because the "ad
5 campaign just didn't work." During this conversation, Weiss stated that "*SENSEA would*
6 *probably walk away this [referring to the Agreement] if it could.*"

7 40. On May 8, 2013, Spencer's agent and publicist met with SENSEA's executives in
8 SENSEA's offices for, what SENSEA called a "brand meeting" (the "5/8/13 Brand Meeting"). The
9 SENSEA executives expressed their appreciation that Spencer was willing to come up with
10 additional ideas help the campaign.

11 41. SENSEA's executives informed Spencer's agent and publicist that the campaign
12 had not been successful for them. SENSEA admitted that overall results from the Spencer
13 campaign were down significantly when compared to SENSEA's regular branded commercials.
14 As a result, SENSEA stated that it decided to limit the airing of Spencer's television advertising
15 spots. SENSEA also noted that it had placed Spencer's print advertisements in nine (9)
16 publications but stopped because the average CPA was down significantly compared to
17 SENSEA's direct response advertisements. In other words, SENSEA admitted the campaign was
18 not working and, instead of keeping the advertisements out in the market to generate momentum
19 for the SENSEA product, SENSEA withdrew the advertisements, effectively killing the campaign.

20 42. SENSEA admitted that Spencer's social media posts generally received less likes
21 than the brand saw with their normal posts. Although the reactions to Spencer's posts were all
22 positive, SENSEA felt that her use of "#spon" at the end of her tweets, which is a requirement
23 under the Agreement and by the FTC, did not benefit her performance. SENSEA spent no more
24 than ten minutes on the topic of social media and Spencer's tweets. At no time did anyone from
25 SENSEA ever mention that it considered the frequency of Spencer's tweets to be a breach of the
26 Agreement.

27 43. During the 5/8/13 Brand Meeting, SENSEA stated that its research showed that
28 Spencer was only relevant to its target audience when her awareness in the media was high.

1 SENSEA further admitted that its research indicated that while some consumers recognized
2 Spencer's weight loss success, many did not recognize who she was or that she had lost weight.
3 As a result the campaign in general was not performing up to their expectations.

4 44. Towards the end of the 5/8/13 Brand Meeting, the SENSEA executives asked
5 Spencer's agent and publicist for "advice" and to help think of ways to leverage Spencer's story
6 and personality over the coming nine months through the expiration of the Agreement. The
7 parties then brainstormed new approaches. At the conclusion of the meeting, SENSEA expressed
8 that it was happy to have new ideas to push forward. SENSEA never mentioned that it considered
9 the Spencer Parties in breach of the Agreement. In fact, SENSEA admitted throughout the 5/8/13
10 Brand Meeting that the campaign simply failed.

11 G. **SENSEA Refuses to Operate in Good Faith Under the Agreement.**

12 1. **SENSEA Continually Demands that Spencer Remove the "#spon" from**
13 **Her Tweets in Breach of the Agreement.**

14 45. Paragraph 3.1(e) is entitled "Social Media Legal Compliance." It states the
15 following:

16 "[Orit] shall ensure that all social media content created and/ or
17 published by[] [Orit] or [][Spencer] comply with all relevant laws,
18 regulations and rules including, without limitation the Federal
19 Trade Commission (FTC) Guidelines concerning the use of
20 endorsements and testimonial in advertising (**i.e., including**
21 **disclosure language such as #SPON**). [][SENSEA] shall provide
22 [][Orit] and [][Spencer] with guidelines for such compliance and
23 [][SENSEA] shall ensure that any and all social media content
24 created and/ or published by[] [SENSEA] complies with all relevant
25 laws, regulations and rules, including without limitation the FTC
26 Guidelines concerning the use of endorsements and testimonials in
27 advertising.

28 (See Agreement, ¶ 3.1(e) (emphasis added)).

1 46. Throughout the parties' relationship, and in five (5) documented occasions
2 between April 11 to May 17, 2013, SENSEA executives and representatives requested that
3 Spencer remove the "#spon" at the end of her tweets, in clear violation of the Agreement and
4 FTC regulations. Moreover, when SENSEA provided copy for Spencer's tweets for April and
5 May, the language omitted the "#spon." Not wanting to breach her Agreement, FTC regulations
6 or her talent agency's custom and practice, Spencer's re-tweets contained the "#spon" language.

7 47. In a clear showing of bad faith, SENSEA later attempted to blame the Spencer
8 campaign's failure on Spencer's tweets which, it claimed, were rendered ineffective as a result of
9 the "#spon" language contained at the end of them. SENSEA's reasoning for Spencer to remove
10 the "#spon" from its tweets was simply that its past celebrities never used the "#spon" language.

11 **2. SENSEA Continually Tries to Place Advertisements, Advertorials and**
12 **Editorials in Tabloid Magazines, Against Spencer's Wishes.**

13 48. The Spencer Parties and their team made it clear from the Initial Endorsement
14 Meeting and all during the contract negotiations that Spencer did not want to run any
15 advertisements, articles or advertorials in tabloid magazines and websites. Despite these clear
16 instructions and SENSEA's assurances that it would honor Spencer's wishes, SENSEA personnel
17 continually hounded and demanded that the Spencer Parties approve advertisements, editorials
18 and advertorials in numerous tabloid magazines.

19 49. The content, layout and overall presentation for the tabloid magazine
20 advertisements, advertorials and editorials suggested by SENSEA was not high caliber and the
21 campaigns were rejected by the Spencer Parties in good faith. However, SENSEA continued to
22 push for a presence in the tabloid arena. As a show of good faith and in the spirit of being a
23 good partner, the Spencer Parties approved a one-time "advertorial" in Star and OK.

24 50. Unfortunately, no good deed goes unpunished. On or about June 7, 2013, SENSEA
25 sought the Spencer Parties' approval of another editorial in various AMI publications in OK and
26 Star magazines. Reluctantly, the Spencer's representatives agreed to review the article. As
27 predicted, the article was replete with misinformation, including a claim that Spencer lost 30
28 pounds, which SENSEA knew to be untrue. The article also contained a sensationalized headline

1 entitled "OCTAVIA SPENCER'S THIRTY POUND SLIM DOWN!" The article also contained
2 "before & after" photographs which SENSEA knew Spencer did not approve. The Spencer
3 Parties rejected the entire article in good faith. In response to outright rejection of the editorial,
4 and in another clear showing of bad faith, SENSEA argued that OK and Star magazines were
5 "preapproved" media outlets, suggesting that the Spencer Parties had to approve some form of
6 the article.

7 **3. SENSEA Continually Tries to Place "Before & After" Photographs in**
8 **Spencer's Advertisements, Despite Spencer's Constant Objections.**

9 51. The Spencer Parties and their representatives made it clear from the Initial
10 Endorsement Meeting and during the contract negotiations that Spencer would not agree to
11 running advertisements, editorials or advertorials that included "before & after" photographs.
12 Despite SENSEA agreeing to this condition, SENSEA constantly requested the use of "before &
13 after" photographs. SENSEA made it a habit to try and push "before & after" photographs into
14 the advertisements, editorials or advertorials that it was seeking approval to use from the Spencer
15 Parties with the hopes that Spencer would feel beat down and would just approve the "before &
16 after" photographs. Finally, as a show of good faith, the Spencer Parties agreed to consider
17 "before and after" photographs months after entering into the initial agreement. SENSEA used this
18 to continually bombard the Spencer Parties with requests to use "before and after" photographs.

19 **H. Spencer Meets Her Weigh-In Requirement to SENSEA's Disappointment;**
20 **SENSEA Begins to Manufacture a Way Out of the Agreement.**

21 52. Pursuant to the Agreement, Spencer had a mandatory weigh-in on June 28, 2013,
22 to determine if she kept the 20 pound weight loss per the terms of the Agreement. She passed.
23 Had Spencer failed to keep the weight off, SENSEA could have terminated the Agreement. On
24 information and belief, the Spencer Parties allege that SENSEA wanted Spencer to fail the weigh-
25 in so it could terminate the Agreement. On information and belief, the Spencer Parties alleges
26 that after her successful weigh-in, SENSEA began a series of events and schemes designed to
27 separate SENSEA from the Agreement.
28

1 **1. SENSA Decides in Late June 2013, Possibly Before Spencer's Successful**
2 **Weigh-In, to Stop Paying Orit the Monthly Service Fees and Never Tells**
3 **the Spencer Parties.**

4 53. On August 2, 2013, O'Reilly sent an email to Tom Allamon of Falcon which
5 stated "can you please explain why I'm receiving invoices from you when I've stated numerous
6 times that you should not be providing Octavia with payments **since July 1, 2013?**"

7 54. Pursuant to the terms of the Agreement, SENSA is required to pay Orit
8 \$95,833.33 on the 1st day of each month from February 1, 2013 through February 1, 2014.
9 Therefore, if SENSA made a decision to breach the Agreement and not pay Orit its service fees
10 for July, 2013, it would have had to have made that decision before July 1, 2013. Despite its
11 refusal to pay Orit the \$95,833.33 service fees for July, SENSA *never informed the Spencer*
12 *Parties of its decision or that it considered the Spencer Parties in breach of the Agreement.*

13 55. The Spencer Parties were unaware of SENSA's decision not to pay the Spencer
14 Parties' July service fees because Falcon paid the service fees to Orit for July - so that it would
15 not be in breach of its agreement to pay the service fees to Orit. Falcon later sought
16 reimbursement of the fees it paid in July from SENSA who refused.

17 **2. SENSA Meets with the Spencer Parties on July 12, 2013 and Never**
18 **Informs Them of Its Decision to Not Make the July Service Fee Payment.**

19 56. On July 9, 2013, SENSA's general counsel Keith Klein ("Klein") asked to meet
20 Spencer's agent to discuss the Spencer Parties' relationship with SENSA. At the time, SENSA
21 still had not informed the Spencer Parties of SENSA's decision to not pay the July service fees.

22 57. At Klein's suggestion, Spencer's agent and attorney met with Klein on or about
23 July 12, 2013 to discuss the Spencer Parties' relationship with SENSA. At the conclusion of the
24 meeting, Klein suggested that the parties postpone the Agreement. The Spencer Parties'
25 representatives responded that they would get back to him but that they considered the
26 Agreement to be active and in full force. *Klein never informed the Spencer Parties' lawyer and*
27 *agent of SENSA's decision to not pay the July service fees or that it considered the Spencer*
28 *Parties in breach of the Agreement!*

1 **I. SENSA Fails to Make the August 2013 Monthly Service Fee Installment to**
2 **the Spencer Parties in Breach of the Agreement.**

3 58. SENSA failed to make the August 1, 2013 monthly service fee payment to the
4 Spencer Parties in material breach of the Agreement. As of August 1, 2013, SENSA still had not
5 informed the Spencer Parties of SENSA's decision to not pay any more service fees as of June
6 2013 or that it considered the Spencer Parties in breach of the Agreement!

7 59. When the Spencer Parties' representatives contacted Falcon about the missed
8 August 1, 2013 service fee payment, Falcon stated that SENSA had informed them that the
9 Spencer Parties and SENSA agreed to postpone the Agreement. Falcon also informed the
10 Spencer Parties' representatives that SENSA never made the July 1, 2013 service fee payment
11 either.

12 60. Upon learning this information from Falcon, the Spencer Parties instantly realized
13 that SENSA was scheming to terminate the agreement. The first time SENSA ever suggested
14 that the parties postpone the Agreement was at Klein's suggestion on or about July 12, 2013,
15 weeks *after* SENSA had already informed Falcon that is was not going to make the July 1, 2013
16 service fee payment.

17 **J. SENSA Fails to Make a Charitable Donation and Fails to Issue Semi-Annual**
18 **Accounting Statements in Breach of the Agreement.**

19 61. To date, SENSA has failed to make the \$100,000 charitable donation in breach of
20 paragraph 5.3 of the Agreement.

21 62. To date, SENSA has also failed to render any semi-annual statements in breach of
22 paragraph 5.10(c) of the Agreement.

23 **K. The Spencer Parties Send a Notice of Anticipatory Breach to SENSA and**
24 **Demand that SENSA Make the August Service Fee Payment.**

25 63. On August 2, 2013, the Spencer Parties' counsel sent SENSA a notification of
26 SENSA's anticipatory breach of the Agreement and demanded that SENSA make the August
27 service fee payment to Orit.
28

1 **L. After the Spencer Parties Refuse to Terminate the Agreement, SENSE**
2 **Terminates the Agreement by Fabricating a Contract Breach by the Spencer**
3 **Parties.**

4 64. On August 8, 2013, the parties' representatives met to discuss the parties'
5 differences regarding the Agreement. At the beginning of the meeting, Klein handed copies of a
6 termination letter, dated August 6, 2013 (the "Termination Letter") to the Spencer Parties.

7 65. The Termination Letter was replete with misinformation and downright lies about
8 the Spencer Parties. Shockingly, the Termination Letter blamed the Spencer Parties' alleged
9 breaches of the Agreement for the failed advertising campaign. In sum, SENSE alleged that
10 Spencer's failure to get a half dozen tweets pre-approved by SENSE, and Spencer's insistence to
11 add "#spon" at the end of her tweets, as required by the Agreement and the FTC, constituted a
12 material breach of the Agreement, was bad faith and led to a significant loss in sales for SENSE.
13 Finally, the letter stated that SENSE continually operated in good faith under the Agreement.
14 This statement is contradicted by the allegations set forth herein. Moreover, SENSE cannot hide
15 from the fact that it made a decision to stop making service payments to Orit in June 2013 and
16 never informed the Spencer Parties of this until August.

17 66. During the August 8, 2013 meeting, Klein offered no explanation why SENSE
18 never informed the Spencer Parties of SENSE's decision to not pay the July service fees or that
19 it considered the Spencer Parties in breach of the Agreement since as early as June 2013. He
20 did, however, insinuate that the Spencer Parties may wish to terminate the Agreement on their
21 own. It seemed clear that he was looking for a way have the Spencer Parties walk away from
22 their contractual obligations to SENSE. The August 8 meeting ended with no resolution.

23 67. After the Spencer Parties demanded that SENSE honor the Agreement, on or
24 about August 12, 2013, SENSE emailed the Termination Letter to the Spencer Parties' counsel.

25 68. As of the date of the filing of the complaint, SPENSE has not honored the terms
26 of the Agreement, in complete violation thereof.

27
28

1 **FIRST CAUSE OF ACTION**

2 **(For Breach of Written Contract: Spencer Parties against SENSEA and Does 1-50)**

3 69. The Spencer Parties re-allege herein by this reference each and every allegation
4 contained in paragraphs numbers 1 through 68 of this Complaint as if set forth fully herein.

5 70. As evidenced by Exhibits "A" and "B", the Spencer Parties and SENSEA entered
6 into a valid and enforceable written endorsement agreement. The Agreement was entered into
7 between SENSEA and Orit for the direct benefit of Spencer.

8 71. SENSEA and Does 1-50 have breached the Agreement by failing to make the July
9 1 and August 1, 2013, monthly service fee payments pursuant to paragraph 5.1 of the Agreement
10 (as specifically set forth in paragraph 5.1 of the Amendment).

11 72. SENSEA and Does 1-50 have breached the Agreement by failing to make the
12 \$100,000 donation to support a foundation set up by Spencer to help fight childhood obesity as
13 required in paragraph 5.3 of the Agreement.

14 73. SENSEA and DOES 1 – 50 have further breached the Agreement by failing to
15 render any semi-annual statements to the Spencer Parties in breach of paragraph 5.10(c) of the
16 Agreement.

17 74. The Spencer Parties have duly performed all the conditions, covenants and
18 promises on their part to be performed under the Agreement, except those obligations that they
19 were prevented or excused from performing and those obligations waived by SENSEA and Does 1
20 through 50 as a result of SENSEA's and Does 1 through 50's breach of the Agreement.

21 75. As a direct and proximate result of SENSEA's and Does 1 through 50's breach of
22 the Agreement, the Spencer Parties have suffered damages in an amount subject to proof at trial,
23 but that is no less than an amount in excess of the jurisdictional minimum of this Court.

24 **SECOND CAUSE OF ACTION**

25 **(Breach of the Covenant of Good Faith and Fair Dealing: Spencer Parties against SENSEA
26 and Does 1-50)**

27 76. The Spencer Parties re-allege herein by this reference each and every allegation
28 contained in paragraphs numbers 1 through 75 of this Complaint as if set forth fully herein.

1 77. The Spencer Parties allege that California implies in all contracts a covenant that
2 the parties will act in good faith and deal fairly with each other. *See* Restatement Second of
3 Contracts, section 205; *see also* *Comunale v. Traders & General Ins. Co.*, 50 Cal.2d 654, 658
4 (1958). The covenant of good faith exists to prevent one party from unfairly frustrating the other
5 party's right to receive the benefits of the agreement actually made. *Guz v. Bechtel National,*
6 *Inc.*, 24 Cal.4th 317, 349-350 (2000). This means that each party will not do anything to unfairly
7 interfere with the right of any other party to receive the benefits of the contract.

8 78. The Spencer Parties are further informed and believe and thereupon allege that the
9 facts alleged in the Complaint establish that SENSEA and Does 1 through 50 breached the implied
10 covenant of good faith and fair dealing that is implied in the Agreement by their actions
11 previously stated herein. Evidence of SENSEA's breach of the Covenant of Good Faith and Fair
12 Dealing is both numerous and compelling.

13 79. Specifically, SENSEA's (1) repeated efforts to force Spencer to agree to tabloid
14 advertisements, advertorials and editorials; (2) repeated requests that Spencer agree to "before &
15 after" photographs in SENSEA advertisements, advertorials and editorials; and (3) repeated
16 attempts to slip "before & after" photographs by Spencer's publicity team, while knowing full
17 well that Spencer did not approve tabloids and "before & after" photographs, is a clear breach of
18 the covenant of good faith and fair dealing. Indeed, this conduct frustrated the spirit, intent and
19 direct language of the Agreement and was the cause of a great deal of stress between the parties.

20 80. Additionally, SENSEA's insinuation that the Spencer Parties should terminate the
21 Agreement on their own also evinces bad faith.

22 81. Moreover, SENSEA's futile attempt to manufacture a material contract breach by
23 the Spencer Parties and then blaming its failed advertising campaign on the Spencer Parties'
24 purported contract breach also demonstrates bad faith.

25 82. Additionally, SENSEA's statement to Falcon to hold off on the service payments
26 under the Agreement because the Spencer Parties and SENSEA agreed to put the Agreement on
27 hold, when SENSEA knew that no such agreement was reached, is further evidence of SENSEA's
28 bad faith conduct.

1 83. Additionally, SENSEA's decision to stop paying the service fees to the Spencer
2 Parties in June, while *never informing* the Spencer Parties of its decision, despite its face-to-face
3 meetings with the Spencer Parties in July, is proof positive of SENSEA's bad faith and its attempt
4 to create a contract breach where one does not exist.

5 84. As a direct and proximate result of SENSEA's and Does 1 through 50's breach of
6 the Agreement, the Spencer Parties have suffered damages in an amount subject to proof at trial,
7 but that is no less than an amount in excess of the jurisdictional minimum of this Court.

8 **THIRD CAUSE OF ACTION**

9 **(For Fraud: The Spencer Parties against SENSEA and Does 1-50)**

10 85. The Spencer Parties re-allege herein by this reference each and every allegation
11 contained in paragraphs numbers 1 through 84 of this Complaint as if set forth fully herein.

12 86. The SENSEA Assurances to the Spencer Parties that SENSEA would honor and
13 abide by the Spencer Requirements were relied on by the Spencer Parties and the reason that the
14 Spencer Parties agreed to enter into the Agreement and to forego a \$3 million dollar endorsement
15 offer from one of SENSEA's competitors.

16 87. On information and belief, each time that SENSEA executive made the SENSEA
17 Assurances without any intention of honoring the SENSEA Assurances. Thus, the SENSEA
18 Assurances were in fact false and were known by the SENSEA executives to be false at all times
19 they were made.

20 88. To the extent any of the SENSEA Assurances were promissory in nature, SENSEA
21 made the representations without the intention of performing same. All of said representations
22 were made with the intent that the Spencer Parties rely upon the same.

23 89. The Spencer Parties justifiably relied on the SENSEA Assurances and, in doing so,
24 changed their position to their detriment by doing each and all of the things alleged above,
25 including entering into the Agreement. If not for the SENSEA Assurances, the Spencer Parties
26 would not have entered into the Agreement herein described, incurred the aforementioned
27 expenses, fees and costs, or otherwise performed as alleged hereinabove. To the contrary, the
28 Spencer Parties would have ended any discussion with SENSEA about entering into the

1 Agreement.

2 90. As a direct and proximate result of the aforementioned misrepresentations,
3 concealments and/or failures to disclose, the Spencer Parties have been damaged in an amount in
4 excess of the jurisdictional minimum of this Court.

5 91. The conduct of SENSEA and Does 1-50, and each of them, was wanton, willful,
6 deliberate, and in conscience disregard of the rights and feelings of the Spencer Parties, and/or
7 undertaken with the intent to cause the Spencer Parties injury, and constitutes fraud and malice,
8 express and implied. The Spencer Parties are entitled to an award of damages by way of
9 punishment and example against SENSEA and Does 1-50, in an amount as the trier of fact deems
10 just and proper.

11 **FOURTH CAUSE OF ACTION**

12 (For an Accounting: Orit against SENSEA and Does 1-50)

13 92. Orit re-allege herein by this reference each and every allegation contained in
14 paragraphs numbers 1 through 91 of this Complaint as if set forth fully herein.

15 93. Pursuant to paragraph 5.2 of Agreement, Orit is entitled to a contribution bonus
16 based on SENSEA profits. However, the Spencer Parties are unaware of SENSEA's profits because
17 SENSEA has failed to provide the Spencer Parties with semi-annual accounting documents as
18 required under the Agreement.

19 94. SENSEA has access to information concerning its profits, but this information has
20 not been provided to the Spencer Parties. The Spencer Parties do not have access to this
21 information.

22 95. An order from the Court is required for SENSEA to provided full accounting to the
23 Spencer Parties.

24 WHEREFORE, the Spencer Parties pray for judgment in its favor against the Defendants,
25 and each of them, as follows:

26 **ON THE FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT**

- 27 1. For compensatory damages according to proof;
- 28 2. For pre-judgment interest at the maximum rate permitted by law on all;

- 1 3. For the costs of suit incurred herein; and
- 2 4. For such other and further relief as this Court may deem just and proper.

3 **ON THE SECOND CAUSE OF ACTION FOR BREACH OF THE COVENANT OF**
 4 **GOOD FAITH AND FAIR DEALING**

- 5 1. For compensatory damages according to proof;
- 6 2. For pre-judgment interest at the maximum rate permitted by law on all;
- 7 3. For the costs of suit incurred herein; and
- 8 4. For such other and further relief as this Court may deem just and proper.

9 **ON THE THIRD CAUSE OF ACTION FOR FRAUD**

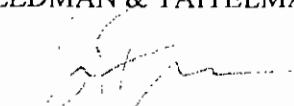
- 10 1. For compensatory damages according to proof;
- 11 2. For pre-judgment interest at the maximum rate permitted by law on all;
- 12 3. For the costs of suit incurred herein;
- 13 4. For punitive damages against Defendants in an amount that the trier of fact deems
- 14 just and proper; and
- 15 5. For such other and further relief as this Court may deem just and proper.

16 **ON THE FOURTH CAUSE OF ACTION FOR AN ACCOUNTING**

- 17 1. For compensatory damages according to proof;
- 18 2. For an accounting.

19 Dated: August 27, 2013

FREEDMAN & TAITELMAN, LLP

20
21 By 

Bryan J. Freedman
 Brian E. Turnauer

Attorneys for Plaintiffs Octavia Spencer and Orit
 Entertainment, Inc.

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THE
Hollywood
REPORTER

EXHIBIT A

ENDORSEMENT AGREEMENT

THIS ENDORSEMENT AGREEMENT ("Agreement") is made and entered into and shall be effective as of August 17, 2012 (the "Execution Date") by and between Sensa Products, LLC, a Delaware limited liability company ("Sensa") and Falcon Enterprises, Inc., an Ohio corporation, in conjunction with Sourcequest Communications, a SAGAFIRA signatory in good standing (Collectively, "Company"), and Orit Entertainment, Inc., an Alabama corporation ("Lender"), for the services of Octavia Spencer ("Artist").

RECITALS

A. Company is engaged in the design, development, production, display, marketing, sale and distribution of the SENSA® Weight Loss System as well as other health and wellness products (the "Products") under the Brand (as defined below).

B. Artist is a prominent public figure in the entertainment industry with name recognition as Octavia Spencer.

C. Company desires to engage Artist to render endorsement serves on behalf of Company in connection with the Company's marketing, sale and distribution of the Products under the SENSA® mark or such other names, logos, trademarks, service marks, slogans and the like specified by Company from time to time (the "Brand").

D. Artist desires to so act, endorse the Products and enter into this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

I. DEFINED TERMS

The following terms shall have the meanings set forth for purposes of this Agreement:

1.1 "Affiliate" means any person or entity controlling, controlled by or under common control with the referenced person or entity.

1.2 "Artist" shall have the meaning set forth in the preamble.

1.3 "Artist's Persona" means Artist's name, statements, voice, signature, likeness, image, pictures, video, films, slides, endorsements, testimonials, direct quotations, biography, biographical information, all other elements of Artist's Persona, and/or any portion or component thereof, including any derivative thereof in any form, format, or medium.

1.4 "Brand" shall have the meaning set forth in the Recitals above.

1.5 “**Commencement Date**” shall mean the date that is the earlier of (i) the first use of materials featuring Artist’s Persona; or (ii) a public announcement of Company’s relationship with Artist; provided that if neither of the foregoing have occurred prior to February 15, 2013, February 15, 2013, shall be deemed the Commencement Date.

1.6 “**Company**” shall have the meaning set forth in the preamble.

1.7 “**Confidential Information**” means all non-public knowledge and information which one party (which includes Artist as it relates to Lender) acquires, directly or indirectly, from the other party or any of such party’s Affiliates, members, directors, officers, agents, partners, employees, independent contractors, licensees or customers; any other information developed by or on behalf of a party that is treated as confidential by such party or is not generally known publicly or in the industry in which such party does business, including trade secrets, customer lists, customer and vendor information, marketing information, business plans, business methods, revenue and sales data, and other product development information.

1.8 “**Effective Date**” shall have the meaning set forth in the preamble.

1.9 “**Media Day**” means a one (1) hour in-person message training/refreshers session the night before a scheduled Media Day, and eight (8) consecutive hours from call time to release, exclusive of hair/makeup, travel to first location and reasonable breaks for meals; provided that a Media Day shall be no more than twelve (12) consecutive hours, portal-to-portal (inclusive of hair/makeup, travel and all breaks).

1.10 “**Channel Profits**” shall be defined as net revenue (gross revenue less returns) less all costs directly identified to the specific channel including, but not limited to, cost of goods sold, merchant fees (i.e. credit card fees to process credit cards), sales and marketing, customer service and fulfillment. For the sake of clarity, all costs and fees shall only be deducted once (i.e. if a cost or fee is deducted and/or accounted for with respect to one channel, it may not also be deducted and/or accounted for with respect to another channel).

1.11 “**Production Day**” means a two (2) hour wardrobe fitting session the day prior to the Production Day, and ten (10) consecutive hours from call time to release, exclusive of hair/makeup, travel and reasonable breaks for meals; provided that a Production Day shall be no more than twelve (12) consecutive hours, portal-to-portal (inclusive of hair/makeup, travel and all breaks).

2. LICENSE AND ENDORSEMENT

2.1 License. Solely during the Term, Lender hereby grants to Company the right and limited license throughout North America (including the United States and all of its possessions and territories) to use and exploit Artist’s Persona solely in connection with the display, marketing, sale and distribution of the Products that demonstrate Lender’s endorsement of the Products in a reasonable amount of the following: national and local television, radio and Internet broadcasts, print media, digital/online media (including, but not limited to, banner ads, iMedia, vignettes, digital films, etc.), mutually approved public relations materials (i.e. press releases, media alerts, video news releases (VNRs), audio news releases (ANRs), podcasts, press kits and press materials, website content, blogs, specialized “pages” within sites (such as Facebook, Twitter, Flickr, YouTube and

other public relations and educational materials), corporate communication vehicles for internal and external audiences (i.e. intranet, employee newsletters, e-mails, annual reports, etc.) and gift with purchase and collateral marketing materials. Lender hereby further grants to Company the worldwide right and limited license to use and exploit Artist's Persona on all Internet and all social media platforms in connection with the display, marketing, sale and distribution of the Products that demonstrate Lender's endorsement of the Products. Neither Lender nor Artist grant any rights to using Artist's Persona in connection with or in any way related to the following: (i) cinema and/or theatrical use; (ii) the packaging of any Products; (iii) in-store, point of sale materials, cut-outs and/or billboards; and (iv) publications that Lender or Artist (or Artist's representatives) expressly inform Company are prohibited.

2.2 Prohibited Uses of Artist's Persona. During the Term (as defined below) and for thirty (30) days following its expiration or otherwise termination, Lender shall not, and Lender shall prevent Artist's Persona, or any part thereof, or services to be used to: (i) advertise, merchandise, promote, market, sell, distribute, or endorse any products or services substantially similar to the Products (i.e., weight loss and diet products categories including, but not limited to, weight loss beverages; meal replacements and foods), or any part thereof, or any other website, newsletter or service that provides products or services that are in competition with the Products or any part thereof. In addition, during and following the Term, Lender shall prevent Artist's Persona, or any part thereof, or services to be used to: (ii) disparage, denigrate or ridicule the Company or the Products or any part thereof. Company agrees, during and following the Term, that Company shall not disparage, denigrate or ridicule Lender and/or Artist. During the Term, Lender shall use good faith efforts to notify Company promptly upon Lender's or Artist's discovery of any third party using the Artist's Persona or any part thereof in connection with any products or services competitive with the Products. In addition, Company agrees to not use Artist's Persona in its home shopping television programs, appearances and events, and in Company's infomercial programs displayed on television. For the sake of clarity, nothing herein shall preclude Lender and/or Artist from entering into any agreement to advertise, merchandise, promote, market, sell, distribute, or endorse any apparel, exercise or fitness product or equipment, or any other products or equipment related to the foregoing.

2.3 Advertising Agencies. Provided that Company has first meaningfully consulted with Artist, Company shall have the right to designate one or more advertising agencies or firms (each, an "Agency") to act on its behalf in connection with the exercise of all or a portion of Company's rights, and the performance of all or a portion of Company's obligations other than monetary, insurance and indemnity obligations, under this Agreement. Lender hereby consents to Company's appointment of any such Agency and, unless otherwise directed in writing by Company, agrees to comply with all reasonable actions, notices, directions, instructions, requests and decisions of any such Agency which are consistent with the terms of this Agreement.

3. SERVICES OF ARTIST

3.1 Services. During the Term, Lender shall cause Artist to provide the following services (the "Services") to Company, its parent and/or Affiliates, successors and assigns:

(a) Prior to the Commencement Date and six (6) weeks after Artist's surgery, which is currently scheduled to take place on August 2, 2012, Artist shall be permitted to use the SENSEA® Weight-Loss System consistent with the instructions in the SENSEA® Usage

Guide for not less than six (6) months. Except for the payment to be made concurrent with the execution of this Agreement, Lender shall not be entitled to receive any other payment contemplated hereunder unless and until Artist has lost at least twenty (20) pounds using the SFNSA® Weight-Loss System as described above (weight loss shall be measured based on initial weight to be measured at a mutually approved weigh-in and shall exclude any weight loss resulting from any elective cosmetic procedures, if any).

(b) As more specifically set forth herein and in accordance with paragraph 3.2 below, Artist shall use her reasonable good faith efforts to display, promote and endorse the Products, including in public appearances, in interviews, in video productions, in voice messaging, in promotional materials, and at other promotions, events, and appearances in which Artist, directly or indirectly, participates, anywhere in the world. Artist shall use her reasonable good faith efforts to (i) fully support and advocate the use of the Products; (ii) promote the Company, its Affiliates and the Products in a positive, professional and business-like manner.; (iii) cooperate and participate in marketing, advertising, promotion, publicity and sales (including publicity ideas and campaigns) for the Products; and (iv) cooperate and participate in photography, recording and videotape sessions, interviews, and photo shoots.

(c) As more specifically set forth herein and in accordance with paragraph 3.2 below, Artist shall do the following:

(i) Training Session: Attend and participate in a one (1) up to two (2) consecutive hour in-person message training session with the Company and the Company's designated public relations firm at a mutually agreed upon date and time and subject to Artist's availability, prior to the first Production or Media Day.

(ii) Production Days: Attend and participate in two (2) Production Days which shall include, but may not be limited to the following:

- Photo and video shoot, including b-roll, behind-the-scenes footage, video/commercial footage, and before/after photographs;
- Recording of sound bites;
- Production of scripted video vignette(s)/video blog(s);
- voice-over recording;

(iii) Media Days: Participate in five (5) Media Days which shall include, but not be limited to the following:

- Satellite Media Tour (SMT) and Radio Media Tour (RMT) with local, regional and national outlets;
- Live or taped, in-studio media interviews with national, regional and local media outlets;

- In-person or telephone interviews with national and local print outlets, radio stations, various on-line publications (including bloggers), and social networking channels;

- Up to two (2) personal appearances/events; provided that Artist's appearance and/or attendance at any event is subject to Artist's availability and Artist must approve the type of appearance and/or event. For the sake of clarity, a personal appearance and/or attendance at an event will count towards a Media Day (provided that nothing will preclude Company from including a personal appearance as part of a Media Day) and this provision is not meant to imply days in addition to the allotted Media Days above.

(iv) Social Media Posts: At least two (2) times (not within the same 24 hour period) per calendar month, make prompt postings, in a form and substance approved in advance by Company, to Artist's principal personal internet website (if any) as well as Artist's principal social media accounts (i.e., Facebook, Twitter, Pinterest, etc.)(if any) that focus on updates regarding Artist's weight-loss progress with the Products and, when occasionally and reasonably requested by Company, that include content mentioning a SENSEA® Facebook contest and/or promotional code;

(v) Social Media Chat: Upon Company's reasonable request, Artist shall participate in one (1) live Facebook chat (not to exceed one (1) hour in length exclusive of hair and makeup) on a Media Day (as defined herein) with fans of a major magazine to answer questions by fans and discuss Artist's upcoming projects as well as Artist's weight-loss with the SENSEA® Weight-Loss System;

(vi) Additional Media Interviews: During the Term, and in addition to Production Days and Media Days as described above, Lender shall cause Artist to participate in ten (10) media interviews, not to exceed fifteen (15) minutes in length via telephone (or e-mail when applicable and appropriate); provided, however, that the interviews shall be bundled at a minimum of two (2) consecutive interviews at a time; and

(vii) Video/Written Blog Posts: During the Term, Lender shall cause Artist to submit five (5) video/written blog posts (at least four (4) written blog posts and at least one (1) video blog entry) to discuss her progress with the SENSEA® Weight-Loss System. The video blog will be shot during one of the Production Days. Upon Lender's reasonable request, Company will draft the blog posts or otherwise create the content with sufficient substantive input by Artist to ensure the accuracy of such content.

(d) Biographical Information: Upon Company's reasonable request, Lender shall cause Artist to provide all biographical, professional and other similar information reasonably requested by Company in order to allow Company to take full advantage of its rights hereunder. Lender shall respond to reasonable requests from Company for additional related information within three (3) business days of actual receipt of written notice.

(e) Social Media Legal Compliance: Lender shall ensure that all social media content created and/or published by Lender or Artist comply with all relevant laws,

regulations and rules including, without limitation the Federal Trade Commission (FTC) Guidelines concerning the use of endorsements and testimonial in advertising (i.e., including disclosure language such as #SPON). Company shall provide Lender and Artist with guidelines for such compliance and Company shall ensure that any and all social media content created and/or published by Company complies with all relevant laws, regulations and rules, including without limitation the FTC Guidelines concerning the use of endorsements and testimonials in advertising.

(f) Links to Company Website(s): Lender shall use good faith efforts to cause links to the designated Company websites and Products, as reasonably designated by Company, to be prominently displayed "above the fold" on the landing page of Artist's primary internet website, if any.

(g) Additional Media Days and Production Days: Notwithstanding the foregoing, during the Term Company shall have the right to purchase additional Production Days or Media Days with Artist in return for the agreed upon rate in the amount of \$200,000 (Two Hundred Thousand Dollars) per additional day.

3.2 Scheduling. Upon reasonable written request from Company, Lender shall provide Company, an updated calendar of Artist's personal and professional activities for the 3 months following Company's request. Lender agrees to cause Artist to use her reasonable good faith efforts in rendering Services by coordinating her schedule and other business commitments so as not to conflict with the Services and known performance obligations. Notwithstanding anything to the contrary herein, Company will propose scheduled meetings and appearances, upon no less than ten (10) business days prior written notice to Lender, and the parties shall mutually agree upon dates, times and locations for Artist to render Services based on Artist's bona fide professional availability, illness, injury, personal obligations that are not reasonably changeable or other reason beyond Artist's reasonable control that would prevent Artist from rendering services to Company. Lender understands that the numbers of days per month on which Artist may be required to perform her Services in connection are difficult to quantify with certainty. Lender will cause Artist to use her reasonable good faith efforts to meet these obligations subject to her reasonable professional availability. It is understood that while Lender will not be required to devote her full business time and attention to the Services, she must be reasonably available throughout the Term, on reasonable notice and subject to the scheduling provisions set forth above. Notwithstanding the foregoing, Lender and Artist understand and agree that Company now has a very tight production schedule to ensure that it can exploit the rights granted pursuant to this Agreement during the first five months of the calendar year 2013. Accordingly, Lender and Artist understand and agree that Lender and/or Artist will provide sufficient and substantial availability to Company to meet the strict (once mutually approved) production deadlines set forth in Schedule 3.2. If Lender and Artist fail to provide the aforementioned sufficient and substantial availability to Company, Company shall provide written notice to Lender and Artist of such failure. Should Lender and Artist fail to cure such failure within three (3) business days of Lender's and Artist's actual receipt (if such failure is curable), such failure shall constitute a frustration of purpose of this Agreement, rendering it voidable with all payments made to date to be subject to return upon written request by Company. Upon such written request, Company shall immediately discontinue the use of Artist's Persona or otherwise discontinue the use of any materials containing Artist's name and/or image and/or likeness hereunder and neither party hereunder shall have any further obligations to the other except for those obligations that shall survive termination. For the sake of clarity, the aforementioned right to void the Agreement shall expire on February 15, 2013.

3.3 Media Blackout. Lender and Artist shall not schedule any national/local media, SMT and/or RMT media appearances or interviews four (4) weeks prior and two (2) weeks after any scheduled Media Day (the "Blackout Period") on behalf of Lender, Artist or any other product or service endorsed, directly or indirectly, by Lender or Artist, excluding any obligation to a television network, studio, motion picture or movie studio or production company. In the event that Lender and/or Artist is approached by any media outlet for Artist to participate in any non-branded media interviews during the Blackout Period, Lender and/or Artist shall promptly notify Company in writing so that the parties shall mutually agree upon media synergies, if any. Lender and Artist shall use good faith efforts to regularly advise Company of any potential participation, or previously scheduled participation in any media campaigns or content for any nationally prominent company, product, brand, organization, book, video, television show and/or similar subject to ensure the protection of the integrity and exposure of Company's media program and timing. In the event that Lender and/or Artist has any scheduled interviews, the parties shall mutually agree upon media synergies, if any.

3.4 Standard of Conduct. Lender shall perform all of the Services competently in a timely and professional manner, exercising all of the diligence and due care normally exercised in the performance of comparable tasks, in accordance with such practices and procedures appropriate to the activities undertaken, and to the reasonable satisfaction of Company.

3.5 Approval Rights.

(a) Lender and Artist shall have the right to approve Artist Persona and any and all uses of Artist Persona, including without limitation, approval over all creative relating to the use of Artist's Persona. Lender and Artist shall also have the right to approve all PR outlets, PR services, director(s), photographer(s), scripts, concepts and storyboards. All such approvals and/or consents by Lender of Artist Persona and such uses of Artist Persona must be given by email or other form of written communication. All approvals and/or consents by Lender shall not be unreasonably withheld, conditioned or delayed. After signature of this Agreement by Lender and Artist, if any submission shall not have been approved or rejected within three (3) business days of actual receipt by Artist, such request for approval shall be deemed approved. Approvals or consents by Lender and/or Lender's authorized representatives (to be designated in writing by Lender from time to time) shall be deemed to be given by Lender and Artist. Subject to Company's exercise of good faith discretion in the various uses of approved Artist Persona, Lender's and Artist's approval (or deemed approval) of the use of Artist Persona in one instance shall be deemed to be continuing approval of all the same or substantially similar uses of such Artist Persona, unless Lender or Artist, as applicable, subsequently reasonably disapproves said use, and upon such disapproval Company shall remove or alter such use of Artist Persona as soon as reasonably practical. Notwithstanding the foregoing, Lender and Artist acknowledge and agree that due to FTC advertisement requirements, they shall not request under any circumstances that Company retouch or otherwise modify Artist's body shape or form in any materials and Company will not on its own retouch or otherwise modify Artist's body shape or form in any materials. Upon Lender's request, Company shall provide sample advertising and promotional materials incorporating the Artist's Persona.

(b) Lender acknowledges and understands that Company may use other individuals to endorse or promote the Products and Brand at any time. Company makes no commitment to market the Products or Brand (with or without Artist) to any degree or level,

through any particular channel of distribution, or for any particular duration. Company may cease marketing the Products or Brand at any time, with or without Artist).

4. TERM

4.1 Term. The initial term (the "Term") shall be deemed to have begun on the date of execution of this Agreement by all parties and shall continue until 12:01 a.m. on the first (1st) anniversary of the Commencement Date unless earlier terminated as provided herein. Company shall have the right to extend the Term of this Agreement for an additional twelve (12) months upon Company's agreement to increase Lender's compensation set forth in Section 5.1 by fifteen percent (15%) over the initial term contemplated herein. To exercise its right, Company must provide written notice to Lender of its exercise of its right to extend the Term, and such written notice must be delivered to Lender no later than sixty (60) days prior to the expiration of the Term.

4.2 Termination by Company for Cause. This Agreement may be terminated by Company immediately upon written notice to Lender upon the happening of any one or more of the following events:

(a) material default by Lender with respect to any material term or condition of this Agreement, which default is not cured after seven (7) business days prior written notice to Lender.

(b) Fraud or other gross misconduct by Lender or Artist in connection with the performance of its or her duties hereunder.

(c) Artist's death, physical disfigurement or disability. Disability shall be defined as the inability of Lender to perform the Services materially required under this Agreement for 90 consecutive days or more.

(d) If Company determines in good faith that that value of Artist's endorsement and/or exploitation of Artist's Persona is materially reduced or impaired because Lender or Artist:

(i) is charged with a crime involving, or otherwise engaging in, moral turpitude,

(ii) is involved in activities that subjects Artist to widespread (i.e., in the geographic markets where the Property or Brand does business or will likely do business) public contempt and/or which materially tarnishes Artist's image.

(iii) Artist fails to maintain weight loss throughout the duration of the Term, provided that Artist also fails within thirty (30) days following written notice to lose all weight gained following the Commencement Date.

(iv) makes any statements in derogation, in any material respect, of Company or any of its Affiliates or any of their respective products or services and such statement is made to the general public or becomes a matter of public knowledge.

(c) The failure of Lender to fulfill obligations under Section 6 below, or Lender's repeated failure to perform the Services in accordance with the terms of this Agreement.

4.3 Termination by Lender for Cause. This Agreement may be terminated by Lender immediately upon written notice to Company upon the Company's default under any material term or condition of this Agreement; provided, however, that Lender may not terminate this Agreement without first providing Company a reasonable opportunity (which shall not be less than 14 days) to cure such default and if such default is cured within such period, then Lender may not terminate this Agreement.

4.4 As soon as practicable and not later than 60 days following the expiration or earlier termination of this Agreement, Company shall immediately discontinue the use of Artist's Persona or otherwise discontinue the use of any materials containing Artist's name and/or image and/or likeness hereunder as soon as reasonably commercially possible. Following the expiration or earlier termination of this Agreement, and except as specified in paragraph 3.2 of this Agreement, Company shall promptly pay to Lender and/or Artist any and all accrued compensation owed to Lender and/or Artist hereunder and Lender and Artist shall have no further obligations to Company hereunder. Company's indemnity and insurance obligations hereunder shall survive the expiration and/or termination of this Agreement. Company hereby agrees that in no event shall Lender and/or Artist be liable to Company, its Affiliates and/or its successors or assigns, for any lost profits.

5. COMPENSATION

5.1 Services Fee. Company shall pay Lender the total sum of \$1,250,000 during the Term, which sum shall be paid upon the following schedule of events:

- \$100,000 (One Hundred Thousand Dollars) upon execution of this Agreement;
- \$200,000 (Two Hundred Thousand Dollars) upon successful weight loss by Artist of not less than twenty (20) pounds and completion of the first Production Day, but not later than January 11, 2013;
- \$200,000 (Two Hundred Thousand Dollars) upon completion of the second Production Day, but not later than January 22, 2013;
- \$300,000 (Three Hundred Thousand Dollars) upon completion of the first Media Day, but not later than February 24, 2013;
- \$150,000 (One Hundred Fifty Thousand Dollars) on June 15, 2013;
- \$150,000 (One Hundred Fifty Thousand Dollars) on September 15, 2013; and
- \$150,000 (One Hundred Fifty Thousand Dollars) on December 15, 2013.

Lender and Artist acknowledge and agree that Company shall not be obligated to make any one or more of the above-identified payments if Lender and/or Artist is in material uncured breach or default under this Agreement on the date that such payment is due. If Lender and/or Artist cures such breach(es) or default(s), Company shall make withheld payment(s) within ten (10) business days of acknowledgement of cure of all applicable breaches and defaults.

5.2 Contribution Bonus. Lender shall be entitled to receive the following bonuses:

(a) If Company's actual Channel Profits from Internet sales exceed Company's target Channel Profits from Internet sales during the Term (to be rounded to the closest month end), Company shall pay Lender a bonus equal to five percent (5%) of one hundred percent (100%) of the incremental increase between the budgeted Channel Profits from Internet sales during the Term (to be rounded to the closest month end) and the actual Channel Profits from Internet sales during such period;

(b) If Company's actual Channel Profits from short form commercial sales exceed Company's budgeted Channel Profits from short form commercial sales during the Term (to be rounded to the closest month end), Company shall pay Lender a bonus equal to five percent (5%) of one hundred percent (100%) of the incremental increase between the budgeted Channel Profits from short form commercial sales during the Term (to be rounded to the closest month end) and the actual Channel Profits from short form sales during such period;

(c) If Company's actual Channel Profits from radio sales exceed Company's budgeted Channel Profits from radio sales during the Term (to be rounded to the closest month end), Company shall pay Lender a bonus equal to five percent (5%) of one hundred percent (100%) of the incremental increase between the Channel budgeted Profits from radio sales during the Term (to be rounded to the closest month end) and the actual Channel Profits from radio sales during such period.

(d) If Company's actual Channel Profits from print advertising sales exceed Company's budgeted Channel Profits from print advertising sales during the Term (to be rounded to the closest month end), Company shall pay Lender a bonus equal to five percent (5%) of one hundred percent (100%) of the incremental increase between the budgeted Channel Profits from print advertising sales during the Term (to be rounded to the closest month end) and the actual Channel Profits from print advertising sales during such period.

(e) If Company's actual Channel Profits from retail sales exceed Company's budgeted Channel Profits from retail sales during the Term (to be rounded to the closest month end), Company shall pay Lender a bonus equal to five percent (5%) of one hundred percent (100%) of the incremental increase between the budgeted Channel Profits from retail sales during the Term (to be rounded to the closest month end) and the actual Channel Profits from retail sales during such period.

5.3 Charitable Donation. Following the Commencement Date, Company shall make a donation in the amount of \$100,000 (One Hundred Thousand Dollars) to Artist's Foundation to help promote obesity-related causes.

5.4 Agency Commissions. Lender acknowledges that Company shall have no responsibility to pay any third party fees or commissions to any agency or agent of Lender or Artist. Lender and Artist shall indemnify, hold harmless and defend Company from and against any claims, demands, actions, suits, liabilities, judgments or other losses arising out of or relating to any claim made by any actual or alleged agent of Lender and/or Artist.

5.5 Union Obligations. During the Term, Company shall be responsible for all pension, health and welfare contributions to the applicable union(s) on behalf of Artist arising out of this Agreement as required by the Screen Actor's Guild (SAG) or the American Federation of Television and Radio Artists (AFTRA). Company represents and warrants that it is and shall at all times during the Term remain a SAG and/or AFTRA signatory.

5.6 Application of Payments. With respect to the production of television commercials hereunder, irrespective of the method of production, all fees provided for in the applicable bargaining agreement ("Code") of SAG or AFTRA, including, without limitation, session, use, reuse, holding, integration, overtime and travel time, will be computed at the minimum scale rates provided in the Code. Any such amounts payable shall be applied against the amounts otherwise payable hereunder. To the extent that such application results in an excess to Lender, Company shall pay such excess to Lender. Company's failure to pay any such excess sums on a timely basis in accordance with the Code shall not constitute a breach of this Agreement or otherwise effect Company's rights hereunder; provided Company makes such payment to Artist within 30 days of its receipt of written notice from Lender.

5.7 Reimbursement of Expenses. Company shall reimburse Lender within 30 days of submission of bills, vouchers or other supporting data for reasonable costs and expenses incurred by Lender in connection with discharging and carrying out of the Services and which have been approved in writing by Company prior to being incurred.

(a) Hair, Makeup and Wardrobe. Company shall provide and pay for reasonably priced hair, makeup and wardrobe of Artist's choice for all services where Artist appears in person or on camera. All such costs must be approved by Company in writing prior to being incurred.

(b) Artist's Publicist. Following performance of all of the Services, Company shall pay Artist's publicist a one-time fee in the amount of \$10,000 (Ten Thousand Dollars) for use of her services during the Term of this Agreement.

(c) Additional Available Support. During the Term, Company shall make available to Artist, at Company's cost, the following additional support during the Term: (1) Celebrity SENSEA® Success Coach (Patti Stanger and/or Dayna Devon); (2) Celebrity Nutritionist (Lisa DeFazio or another nutritionist selected by the Company); and (3) Celebrity Fitness Trainer selected by the Artist. In such cases, Company will work with Artist to find appropriate coaching and support, subject to Company's approval in writing prior to any fees or costs being incurred.

(d) Security. Company shall provide and pay for adequate security for all services where Artist appears in public on behalf of Company; provided, however, that such expenses are reasonable.

5.8 Travel and Hotel Policies.

(a) All domestic air travel for Artist shall be no less than first class (where and when available) and, wherever published air schedules permit, transfers to reach a final destination shall be direct transfers and in no event shall exceed one airplane transfer. Upon timely request, Company will also pay for and provide first class air travel for one companion and business class roundtrip airfare for a second companion. Company shall book all air tickets for Lender through Company's designated travel coordinator, though Artist may designate the carrier of Artist's choice.

(b) All Company hotel accommodations for Lender shall be, at first class hotels approved by Lender in good faith. Lender shall place hotel accommodation charges on Lender's credit card for reimbursement by Company. Company shall pay for one (1) hotel suite (where available) and two (2) standard rooms.

(c) Company will not reimburse Lender for use of hotel mini bars, movies, internet, or in-room telephone charges and any charges incurred for these items by Lender will be deducted from fees due to Lender.

(d) Company shall pay for and provide first class portal-to-portal local ground transportation from airports and as reasonably requested in connection with the performances of the Services.

(e) Company shall pay, as reasonably requested by Lender, on the days of the performance of the Services and any applicable travel days a non-accountable \$200 (Two Hundred Dollars) per diem.

5.9 Relationship of the Parties. Neither party hereunder shall have authority to act for, bind, or otherwise obligate the other, nor to modify or waive the terms of any agreement to which the other party is a contracting party. Neither party is, nor shall either party, whether expressly or by implication, represent herself/itself to be, an agent, employee, member or partner of, or joint venturer with the other party. Lender is and shall be an independent contractor of Company. Neither party shall perform any acts for or on behalf of the other party other than those specified in this Agreement, or otherwise expressly directed by the other party. Neither Artist nor Lender shall be entitled to participate in Company's or its Affiliate's employee pension, profit sharing and/or other benefit plans, if any, whether now in existence or subsequently adopted. Company shall not be responsible for any withholding of social security, workmen's compensation, unemployment insurance or other tax relative this Agreement. If Lender fails to pay or is alleged to have failed to pay any such social security, workers compensation, unemployment insurance or other tax relative to the Services or the compensation paid under this Agreement, Lender shall indemnify and hold harmless Company from and against any third party allegation, claim, cost, liability, fee, penalty or interest applicable to Company as a result of said nonpayment.

5.10 Audit.

(a) Lender shall have the right, upon at least five (5) days written notice and no more than once per calendar year, to inspect Company's books and records with respect to the subject matter of this Agreement at Company's then-current principal office or other location

reasonably designated by Company. Lender shall be permitted to make copies thereof and extracts therefrom.

(b) In the event that such inspection reveals a discrepancy in the amounts owed Lender from what was actually paid, Company shall pay such discrepancy, plus interest, calculated at the rate of 6% per annum. In the event that such discrepancy is in excess of five percent (5%) of the amount due for the period audited, Company shall also reimburse Lender for the reasonable and actual cost of such inspection.

(c) Company shall render to Lender and Artist semi-annual statements showing a summary of Channel Profits and permitted deductions in reasonable detail.

6. CONFIDENTIALITY

6.1 General. Each party shall hold (and Lender shall cause Artist to hold) all Confidential Information in trust, and neither party nor any individual, limited liability company, partnership, corporation, or other organization or entity under such party's control, shall, at any time during or after the Term, directly or indirectly, divulge, disclose, convey, transmit or make known or available any of the Confidential Information. Neither party (which includes Artist as it relates to the Lender) shall use, exploit or attempt to use or exploit in any way or manner whatsoever the Confidential Information of the other for their benefit or for the benefit of any other person, limited liability company, partnership, corporation, firm or entity other than the first party.

6.2 Return of Information. On or before the expiration or termination of this Agreement, each party shall forthwith return to the other party all papers, books, records, notes, client lists, customer lists, financial information, marketing plans and all other documents, data and property containing or pertaining to the Confidential Information of the other party whether in written, electronic, magnetic, optical or any other form. Each party further agrees to take all reasonable steps necessary or reasonably requested by the other party to ensure that the Confidential Information of the other party is kept confidential.

6.3 Reasonableness of Restrictions. The parties acknowledge and agree that the restrictions contained in Sections 6.1 and 6.2 are reasonable and necessary in order to protect their legitimate interests and that any violation thereof may result in irreparable injury and that a violation of any such sections shall entitle the injured party to seek injunctive relief, in addition to any other remedies to which such party is entitled. Notwithstanding the foregoing, both parties are permitted to disclose information in order to enforce this agreement, to their representatives or as otherwise required by law.

7. WORKS CREATED BY LENDER

7.1 Work Made for Hire.

(a) Lender hereby acknowledges, understands and agrees that all right, title, interest, and Intellectual Property Rights (defined herein) in and to any and all works fixed in a tangible medium of expression, or other materials, that Lender prepares, creates, and/or otherwise makes, either individually or jointly with others, under and/or within the scope of this Agreement are and shall be a "work made for hire" for the sole and exclusive ownership and benefit of

Company in accordance with the copyright laws of the United States including, but not limited to, Sections 101 and 201 of Title 17 of the U.S. Code (hereinafter collectively "Works"). Company shall have the sole and exclusive right to register the copyright(s) in all such Works in its sole name as the owner and author of such Works and shall have the exclusive rights conveyed under 17 U.S.C. § 106 and 106A including, the right to make all uses of the Works in which attribution or integrity rights may be implicated. Additionally, without in any way limiting the foregoing, Lender hereby assigns, transfers, and conveys to Company, its successors, heirs and assigns, any and all right, title or interest that Lender may have, or may acquire in the future, in, to or under the Works including, but not limited to, all ownership, patent, trade secret, copyright, moral, attribution and/or integrity rights. Lender hereby expressly and forever waives, on behalf of himself/herself, and his/her heirs, representatives and assigns, any and all rights that Lender may have arising under 17 U.S.C. § 106A, and any rights arising under any federal or state laws, under the laws of any foreign countries, or under any right to publicity laws, that conveys rights which are similar in nature to those conveyed under 17 U.S.C. § 106A, or any other type of publicity right, moral right or *droit moral*. Lender agrees that Company owns and is entitled to use and exploit any of the Works without additional consideration, for any purpose whatsoever in any and all media or format, now or hereafter known or devised.

(h) "Intellectual Property Rights" mean any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (a) rights associated with works of authorship throughout the universe, including, without limitation, all exclusive exploitation rights, copyrights, neighboring rights, moral rights, and mask-works, (b) trademark, service mark, trade dress, and trade name rights and similar rights, (c) trade secret rights, (d) patents, designs, algorithms, and other industrial property rights, (e) all other intellectual and industrial property and proprietary rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force throughout the universe. Notwithstanding anything to the contrary contained herein, Company acknowledges that Lender and/or Artist owns trademark(s) in Artist's name, image and likeness and neither Lender nor Artist is conveying or has conveyed any rights to such trademark(s) to Company except as specifically stated herein.

(c) All rights granted or agreed to be granted by Lender under this Agreement shall vest in Company automatically and immediately, whether by way of a present assignment of future Intellectual Property Rights or otherwise, and shall remain perpetually vested in Company and its successors and assigns, whether this Agreement expires in its normal course, or is terminated in whole or in part by either party for any reason whatsoever.

(d) It is mutually understood and agreed that Company shall be the sole and exclusive owner of all proceeds that Company shall generate as a result of or from the services Lender provides to Company under this Agreement.

7.2 Additional Actions. After a reasonable opportunity to review and comment, Lender shall, without any additional consideration, take all reasonably necessary actions and execute and deliver all documents consistent herewith (and cause its employees and representatives to do the same) as Company may reasonably request to effectuate the acknowledgment of ownership contained in this section and the vesting of complete and exclusive ownership of the Works in Company, and to secure, maintain, and defend for Company's own benefit all rights herein,

including, the right to submit any patent, copyright, or trademark application or registration, or any renewal or extension thereof. Lender hereby irrevocably constitutes and appoints Company as Lender's true attorney-in-fact with full power of substitution and re-substitution, in Lender's name, place, and stead, in any and all capacities, to execute, verify, acknowledge, and/or deliver any document or instrument consistent herewith necessary or appropriate to effectuate the purposes of this Section, and to do and perform each and every act and thing requisite or necessary to be done, as fully and to all intents and purposes as Company might or could do in person, to effectuate the purposes of this Section. Such appointment shall be irrevocable and a power coupled with an interest. Company shall promptly provide any documents or instruments executed, verified or otherwise acknowledged by Company hereunder to Lender and/or Artist.

7.3 Other Rights. Any Intellectual Property Rights arising from or related to Lender's use or promotion of the Products and/or the Brand shall be and shall remain the sole and exclusive property of Company including, any and all trademarks, service marks, logos, slogans, tag lines, works, copyrights, inventions, ideas, patents or other intellectual property rights related thereto.

7.4 Infringement. Company, at its sole discretion, shall have the right, but not the obligation, at its sole cost and expense, to sue for any infringement of the Works or Property and to intervene as a party in any suit concerning any of such Works or Property. Lender shall reasonably cooperate and assist Company in connection with any such litigation and Company shall reimburse Lender for any reasonable out-of-pocket costs and expenses incurred by Lender in connection therewith. In the event any third party commences or threatens to commence a legal action, suit or proceeding against Lender alleging that its use of any of the Works or Property infringes or violates any right of such third party, Lender shall promptly notify Company in writing. Lender shall have the right to assume or participate in the defense of any such claims, demands and lawsuits, with counsel of its choosing and at its expense. The parties shall assist and cooperate fully with each other in connection with any infringement action.

8. REPRESENTATIONS AND WARRANTIES

8.1 Lender. Lender represents and warrants to Company as follows:

(a) Lender has all requisite power and authority to enter into and perform this Agreement and to grant the rights as set forth herein.

(b) This Agreement has been duly and validly executed and delivered by Lender and constitutes its valid and legally binding obligation, enforceable in accordance with its terms.

(c) The execution and delivery of this Agreement by Lender and Artist and the performance of the obligations hereunder, do not and will not materially conflict with or result in a breach of or a default under Lender's organizational instruments or any other agreement (express or implied), instrument, order, law or regulation applicable to Lender or Artist or by which Lender or Artist may be bound.

8.2 Company. Company represents and warrants to Lender as follows:

(a) Company has all requisite power and authority to enter into this Agreement, and this Agreement has been duly authorized by all necessary action on the part of Company.

(b) The execution and delivery of this Agreement by it and the performance of its obligations hereunder, do not and will not conflict with or result in a breach of or a default under its organizational instruments or any other agreement, instrument, order, law or regulation applicable to Company or by which Company may be bound.

(c) This Agreement has been duly and validly executed and delivered by it and constitutes its valid and legally binding obligation, enforceable in accordance with its terms.

8.3 No Warranties Regarding Revenues. Lender acknowledges and agrees that Company makes no warranty, expressed or implied, as to the degree of success to be achieved by reason of the marketing of the Products. Company has not made, and does not hereby make, any representation or warranty with respect to the level of subscribership to be derived as a result of the marketing of the Products. Lender recognizes and acknowledges that the levels of sales and channel profits contemplated in any way, shape or form by this Agreement are speculative. Lender acknowledges and agrees that Company and/or its Affiliates currently do, and may in the future, manufacture, market, distribute, and/or sell other, possible competitive, products under the same or other names, utilizing the same distribution channels as will be utilized for the marketing of the Products.

9. INDEMNITY

9.1 By Lender. Lender shall defend, indemnify and hold harmless Company and its parents and subsidiaries, and each of their respective officers, directors, shareholders, employees, licensees, agents, attorneys, representatives, successors and assigns from and against any and all third party losses, costs, damages, claims, suits, actions, judgments, demands, obligations, debts, liabilities, agreements and expenses whatsoever, (including, without limitation, reasonable outside attorneys' fees, court costs and reasonable investigation expenses) (collectively "Losses") which any of them may incur or become obligated to pay arising out of or resulting from the breach by Lender or Artist of any of its or her representations, warranties, covenants, obligations, agreements or duties under this Agreement. Any amounts owed to Company under this Section may be deducted by Company from any compensation owed to Lender under this Agreement.

9.2 By Company. Company shall defend, indemnify and hold harmless Lender and Artist and her spouse, heirs, beneficiaries, executors, estate, representatives, successors and assigns and Lender's officers, directors, shareholders and employees from and against any and all Losses which any of them may incur or become obligated to pay arising out of or resulting from (i) the breach by Company of any of its representations, warranties, covenants, obligations, agreements or duties or the creation, distribution, marketing, promotion, sale or exploitation of the Products; and (ii) the use of the Products including any bodily injury, death or other product liability claims arising therefrom.

9.3 General. The indemnifying party under this Section 9 shall be: (i) provided prompt written notice of the claim to which the indemnity relates; (ii) afforded the opportunity to defend with counsel of its choice at its sole expense; and (iii) provided the right to approve in

writing any proposed settlement. The provisions of this section shall survive any expiration or termination of this Agreement.

10. GENERAL PROVISIONS

10.1 Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws of the State of California, without regard to conflicts of law principles that would require the application of any other law.

10.2 Jurisdiction and Venue. This Agreement is deemed made, entered into in Los Angeles, California, and will be performed in Los Angeles, California. Each of the parties hereto hereby irrevocably consents and submits to the exclusive jurisdiction of the state and federal courts, as applicable, located within the County of Los Angeles, in connection with any proceeding arising out of or relating to this Agreement or the transactions contemplated hereby, and waives any objection to venue in such courts.

10.3 Interpretation. Throughout this Agreement, the use of the singular shall be deemed to include the plural and where any term or phrase is written in lower case letters, it shall have the same meaning ascribed to it as though it is written in title case letters. Headings are for convenience only. As used in this Agreement, the words "include," "includes" or "including" are used in a non-exclusive sense. When a reference is made in this Agreement to an Article, a Section or Exhibit, such reference shall be to an Article or a Section of, or an Exhibit to, this Agreement unless otherwise indicated. Unless otherwise expressly provided in this Agreement to the contrary, any consent, acceptance, approval or authorization of Company which Lender may be required to obtain may be given or withheld by Company in its sole discretion, and on any occasion where Company is required or permitted to make any judgment, determination or use its discretion, including any decision as to whether any condition or circumstance meets Company's satisfaction, Company may do so in its sole subjective judgment and discretion. Neither this Agreement nor any uncertainty or ambiguity in this Agreement shall be construed or resolved against the drafter, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties.

10.4 Entire Agreement. This instrument contains the entire agreement of the parties relating to the rights granted and obligations assumed in this instrument and supersedes any and all other agreements, contracts or understandings between the parties. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by the party to be charged.

10.5 Waivers; Rights Cumulative. No provision of this Agreement may be waived unless in writing signed by all of the parties hereto, and waiver of any one provision of this Agreement shall not be deemed to be a waiver of any other provision. No failure or delay on the part of any party in exercising any right, power or remedy hereunder shall operate as a waiver thereof. No right, power or remedy granted to the parties under this Agreement on default or breach is intended to be in full or complete satisfaction of any damages arising out of such default or breach, and any single or partial exercise of any such right, power or remedy shall not preclude any other, or further exercise thereof, or the exercise of any other right, power or remedy. Each and every right, power or remedy under this Agreement, or under any other document or instrument

delivered hereunder, or allowed by law or equity, shall be cumulative and may be exercised from time to time.

10.6 Severability. Each of the terms and provisions of this Agreement are to be deemed severable in whole or in part, and if any term or provision of the Agreement in any circumstances should be invalid, illegal or unenforceable, the remaining terms and provisions of the Agreement to circumstances other than those as to which it is held invalid, illegal or unenforceable, shall not be affected thereby and shall remain in full force and effect.

10.7 Notice. Notice required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested, or by any other method that provides actual notice thereof. Notice must be addressed to Lender at Lender's last known address as provided below. Notice to Company must be addressed to Company's principal office at the address provided herein below. Notice that is sent by mail shall be deemed given three (3) business days after it is mailed. Any party may designate, by Notice to the other, substitute addresses or addressees for Notices; and, thereafter, Notices are to be delivered to those substitute addresses or addressees. Anything to the contrary herein notwithstanding, any method of delivery of a written Notice shall be deemed sufficient for purposes of this Agreement if the recipient actually receives such written notice.

If to Lender:

Ocravia Spencer
c/o WME Entertainment
9601 Wilshire Boulevard

Third Floor

Beverly Hills, CA 90210

Attn: Brad Slater, Brian Clisham and Tim Curtis

With copies to:

Jackoway Tyerman, et. al.

1925 Century Park East

22nd Floor

Los Angeles, California

Attn: Karl Austen and Ryan LeVinc

If to Company:

Sensa Products, J.I.C.
2301 Rosecrans Avenue, Suite 1150
El Segundo, California 90245
Attn.: General Counsel

10.8 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto.

10.9 Third Party Rights. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of any party hereto or any other party, except as provided herein.

10.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be the same instrument, with the same effect as if all parties hereto had all signed the same signature page.

10.11 Assignment. This Agreement, and the rights, obligations and duties hereunder, shall not be assigned or delegated by Lender without the prior written consent of Company. Company may assign or delegate its rights, obligations and duties hereunder without the prior written consent of Lender, provided that no such assignment or delegation shall act as a novation, such that Company shall remain secondarily liable and the assignee assumes all of Company's obligations hereunder in writing.

10.12 Amendments. No amendment, modification, discharge, rescission or variance from this Agreement shall be binding on either party unless contained in a subsequent, written document, signed by the party against whom enforcement is sought.

10.13 Assistance in Litigation. Lender shall make Artist reasonably available to Company upon reasonable written notice and subject to Artist's reasonable availability, illness, injury, personal obligations that are not reasonably changeable or other reason beyond Artist's reasonable control, to testify as a witness, or otherwise, in the event litigation being brought against Company, its directors, officers, employees upon any claim as it pertains to the Products. In addition, Lender shall notify Company of any threatened or pending litigation against Lender or Company of which Lender becomes aware.

10.14 Insurance. Company shall add Lender and Artist to its general liability, errors and omissions and product liability insurance policies in connection with the Products and the Brand.

10.15 Independent Counsel. Each party has had the opportunity to consult with its or her own attorney with respect to this Agreement, and in the event that any language contained herein is deemed to be vague or ambiguous, this Agreement shall not be strictly construed against any party.

10.16 Partial Invalidity. In the event that any of the provisions, covenants or agreements in this Agreement are held in any respect to be unreasonable or are otherwise invalid, for whatever cause, then the court so holding shall be authorized to effect and change herein to the extent necessary to render any other restrictions of this Agreement enforceable.

10.17 Incorporation of Recitals. The Recitals appearing at the beginning of this Agreement are hereby incorporated into and made a part of this Agreement by this reference.

[SIGNATURE PAGE FOLLOWS]

THE
Hollywood
REPORTER

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

"Lender"

By: Octavia Spencer
Name: ORIT ENT P/S/O Octavia Spencer
Its: PKS

SENSA Products, LLC

[Signature]
By: Brett Brewer
Its: CEO, SENSEA Products, LLC

"Company"

SourceQuest Communications
By: Paribara Backus
Name: PARIBARA BACKUS
Its: EXECUTIVE PRODUCER

RATIFICATION

The undersigned hereby consents to the terms and conditions of the foregoing Agreement, and agrees to perform all of the duties, obligations and services required of Artist thereunder. The undersigned agrees to look solely to Lender for all compensation and benefits to which Artist may be entitled for performing any duties required by the foregoing Agreement. The undersigned represents and warrants to Company as follows: (a) she has all requisite power and authority to enter into this Ratification and to perform as required of Artist under the foregoing Agreement, (b) the execution and delivery of this Ratification and the performance of Artist required under the foregoing Agreement do not and will not conflict with or result in a breach of or a default under any other agreement (including any endorsement agreement), instrument, order, law or regulation applicable to Artist or by which Artist may be bound, and (c) this Ratification has been duly and validly executed and delivered by the undersigned and constitutes her valid and legally binding obligation, enforceable in accordance with its terms.

[Signature]
Octavia Spencer

SCHEDULE 3.2

- Production Day #1 ('after' photo shoot): No later than January 11
- Production Day #2 (commercial shoot): No later than January 22
- Media Day #1: (in either NYC or LA): Leading up to the Oscars (Award show is tentatively scheduled for Feb. 24)
- Media Day #2 (in either NYC or LA): Leading up to the Oscars (Award show tentatively scheduled for Feb. 24)

Note: we would want Media Day #1 and #2 to be close together if possible

THE
Hollywood
REPORTER

EXHIBIT B

**FIRST AMENDMENT TO
ENDORSEMENT AGREEMENT**

THIS FIRST AMENDMENT TO ENDORSEMENT AGREEMENT ("Amendment"), is made and entered into and shall be effective as of January 29, 2013 (the "Execution Date") by and between Sensa Products, LLC, a Delaware limited liability company ("Sensa") and Falcon Enterprises, Inc., an Ohio corporation ("Falcon"), in conjunction with Sourcequest Communications ("Sourcequest"), a SAGAFTRA signatory in good standing (Sensa, Falcon and Sourcequest, collectively referred to as "Company"), and Orit Entertainment, Inc., an Alabama corporation ("Lender"), for the services of Octavia Spencer ("Artist"). This Amendment amends that certain Endorsement Agreement between the parties dated August 17, 2012 ("Agreement"). All capitalized terms not defined in this Amendment shall have the same meanings as set forth in the Agreement. In consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. Section 1.3 of the Agreement shall be amended and replaced in its entirety to read as follows:

"1.3 "Artist's Persona" means Artist's name; statements; voice; signature; likeness; image; pictures; video; films; slides; endorsements; testimonials; direct quotations; biography, including but not limited to the statement that Artist is an "Award Winner" or "Award Winning Actress"; biographical information; amount of weight loss by Artist using the SENSEA® Weight-Loss System as verified by Company and Artist, including but not limited to Artist's twenty (20) pound weight loss; all other elements of Artist's Persona, and/or any portion or component thereof in any form, format, or medium."

B. The following sentence shall be added to the end of Section 2.1 of the Agreement:

"For clarity, Lender and Artist understand and agree that as part of the license granted herein, Company shall have the express right and permission to mention, use and/or reference (i) Artist's twenty (20) pound weight loss using the SENSEA® Weight-Loss System, or any other weight loss verified by Company and Artist; (ii) Artist as an "Award Winner" or "Award Winning Actress". Notwithstanding the foregoing, Company expressly acknowledges and agrees that Company shall not have the right or the permission to mention, use and/or reference Artist as an "Academy Winner" or "Academy Award Winner" or any similar variation thereof. For the sake of clarity, Lender and Artist understand and agree that Company shall have the right to present to Lender, for Lender's approval as set forth in Section 3.5, Artist's "before" photo to demonstrate and highlight Artist's weight loss using the SENSEA® Weight-Loss System; provided if Artist does approve such a "before" photo, such approved photo shall be used in a respectful and tasteful manner."

C. The following sentence shall be added to the end of Section 3.1(a):

"In addition to the foregoing, Artist shall participate in the following scheduled mandatory weigh-ins: (i) February 5, 2013; (ii) July 1, 2013; and (iii) September 1, 2013. For clarity, the parties understand and agree that Artist's failure to maintain Artist's twenty (20) pound weight

loss throughout the Term shall be a breach by Lender and Artist of the Agreement for which Company's remedy shall be as set forth in Section 4.2(d)(iii)."

D. Section 3.1(b) of the Agreement shall be amended and replaced in its entirety to read as follows:

"(b) As more specifically set forth herein and in accordance with paragraph 3.2 below, Artist shall use her reasonable good faith efforts to display, promote and endorse the Products, including but not limited to mentioning Artist's twenty (20) pound weight loss using the SENSA® Weight-Loss System, or any other weight loss verified by Company and Artist, in public appearances, in interviews, in video productions, in voice messaging, in promotional materials, and at other promotions, events, and appearances in which Artist, directly or indirectly, participates, anywhere in the world. Artist shall use her reasonable good faith efforts to (i) fully support and advocate the use of the Products; (ii) promote the Company, its Affiliates and the Products in a positive, professional and business-like manner; (iii) cooperate and participate in marketing, advertising, promotion, publicity and sales (including publicity ideas and campaigns) for the Products; (iv) cooperate and participate in photography, recording and videotape sessions, interviews, and photo shoots; and (v) mention Artist's twenty (20) pound weight loss using the SENSA® Weight-Loss System, or any other weight loss verified by Company and Artist. For clarity, Lender and Artist understand and agree that the foregoing shall expressly include Company's right to have approved by Lender and Artist (as set forth in Section 3.5) creative or other materials that demonstrate Artist's physical and demonstrable use of the Products, including but not limited to the sprinkling, shaking, presenting, grasping or holding of the Products by Artist or any other similar action necessary to demonstrate use of the Products by Artist in such creative or other materials."

E. The following sentence shall be added to the end of Section 3.5(a) of the Agreement:

"In addition to the foregoing, to ensure Company can exploit the rights granted pursuant to this Agreement, Lender and Artist shall not withhold approval and/or consent to any creative material solely because it mentions, uses and/or references (i) Artist's twenty (20) pound weight loss using the SENSA® Weight-Loss System, or any other weight loss verified by Company and Artist; (ii) Artist as an "Award Winner" or "Award Winning Actress"; or (iii) Artist holding the Product or Artist's otherwise physical and demonstrable use of the Products. Notwithstanding the foregoing, Company expressly acknowledges and agrees that Company shall not have the right or the permission to mention, use and/or reference Artist as an "Academy Winner" or "Academy Award Winner" or any similar variation thereof."

F. Section 5.1 of the Agreement shall be amended and replaced in its entirety to read as follows:

"5.1 Services Fee. Subject to the terms of this Agreement, Company shall pay Lender the total sum of \$1,250,000 during the Term, which sum shall be paid upon the following schedule:

- \$100,000 (One Hundred Thousand Dollars) upon execution of this Agreement; and

- The remaining \$1,150,000 (One Million One Hundred Fifty Thousand Dollars) shall be paid in equal monthly installments of \$95,833.33 on the 1st day of each month beginning February 1, 2013 and ending February 1, 2014.”

Lender and Artist acknowledge and agree that Company shall not be obligated to make any one or more of the above-identified payments if Lender and/or Artist is in material uncured breach or default under this Agreement on the date that such payment is due (and no payment shall be due during a cure period). If Lender and/or Artist cures such breach(es) or default(s), Company shall make withheld payment(s) within ten (10) business days of acknowledgement of cure of all applicable breaches and defaults.”

G. Schedule 3.2 of the Agreement shall be amended and replaced in its entirety to read as follows:

- Production Day #1 (commercial shoot): No later than January 29, 2013.
- Production Day #2 (‘after’ photo shoot): No later than February 8, 2013.
- Media Day #1 (in either New York City or Los Angeles): Leading up to the Academy Awards (tentatively scheduled for February 24, 2013).
- Media Day #2 (in either New York City or Los Angeles): Following the Academy Awards (tentatively scheduled during the month of March 2013, which day shall be scheduled as set forth in Section 3.2).”

H. Lender and Artist each acknowledge and understand that, in accordance with Schedule 3.2 of the Agreement, Company now has a very tight commercial production schedule to ensure that it can exploit the rights granted pursuant to the Agreement. Accordingly, Lender and Artist acknowledge that certain materials intended to be used by Company for the “launch” as specifically set forth in Exhibit A attached hereto and incorporated herein by this reference, shall be approved by Lender and Artist as set forth in Exhibit A. For the sake of clarity, all materials not specified in Exhibit A, shall be submitted and approved by Lender and Artist as set forth in Section 3.5 of the Agreement.

I. Except as otherwise set forth herein, the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which together will constitute one and the same document.

Signature page follows.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

“Lender”

ORIT ENTERTAINMENT, INC.

By: [Signature]
Name: Edavia Spencer
Its: Pres/ceo

“Company”

SENSA PRODUCTS, LLC

By: [Signature]
Name: Krista Chadwick
Its: president

SOURCEQUEST COMMUNICATIONS

By: [Signature]
Name: Barbara Gray
Its: President

RATIFICATION

The undersigned hereby consents to the terms and conditions of the foregoing Amendment, and agrees to perform all of the duties, obligations and services required of Artist thereunder. The undersigned agrees to look solely to Lender for all compensation and benefits to which Artist may be entitled for performing any duties required by the foregoing Amendment. The undersigned represents and warrants to Company as follows: (a) she has all requisite power and authority to enter into this Ratification and to perform as required of Artist under the foregoing Amendment, (b) the execution and delivery of this Ratification and the performance of Artist required under the foregoing Amendment do not and will not conflict with or result in a breach of or a default under any other agreement (including any endorsement agreement), instrument, order, law or regulation applicable to Artist or by which Artist may be bound, and (c) this Ratification has been duly and

validly executed and delivered by the undersigned and constitutes her valid and legally binding obligation, enforceable in accordance with its terms.

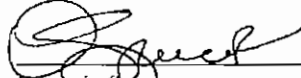

Octavia Spencer

EXHIBIT A

MANDATORY APPROVAL REQUIREMENTS

Project/Materials	Date Lender and/or Artist Receives Materials from Company	FINAL Date Lender and/or Artist must submit final approval or disapproval.
TV	FINE CUT 2/1/13.	2/4/13 (EOD) Final approval or disapproval for TV must be submitted no later than 2/4/13 EOD; otherwise, Octavia and Lender shall forfeit right of approval and all such TV materials submitted shall be automatically deemed approved.
PRINT LAY OUT & COPY	MOCK UPS 1/25/13.	2/4/13 (EOD) Final approval or disapproval for print lay out & copy must be submitted no later than 1/28/13 EOD; otherwise, Octavia and Lender shall forfeit right of approval and all such print lay out & copy materials submitted shall be automatically deemed approved.
PRINT IMAGES	Company and Octavia/Lender select 1 final PRINT IMAGE on set on 2/8/13.	Company and Octavia/Lender mutually select 1 final PRINT IMAGE on set on 2/8/13.
PRINT FINAL	FINAL PRINT for Publication 2/11/13.	2/12/13 (EOD) Final approval or disapproval for

		print must be submitted no later than 2/12/13 EOD; otherwise, Octavia and Lender shall forfeit right of approval and all such print materials submitted shall be automatically deemed approved.
SOCIAL MEDIA and ONLINE ARTWORK	SOCIAL MEDIA and ONLINE ARTWORK MOCK UPS and COPY 2/5/13.	2/6/13 (EOD) Final approval or disapproval on social media and online artwork mock ups and copy must be submitted no later than 2/6/13 EOD; otherwise, Octavia and Lender shall forfeit right of approval and all such social media and online artwork mock ups and copy materials submitted shall be automatically deemed approved.
SOCIAL MEDIA AND ONLINE ARTWORK FINAL	FINAL SOCIAL AND ONLINE ARTWORK 2/14/13	2/15/13 (EOD) Final approval or disapproval on social media and online artwork must be submitted no later than 2/15/13 EOD; otherwise, Octavia and Lender shall forfeit right of approval and all such social media and online artwork materials submitted shall be automatically deemed approved.