

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 ALAN S. WEINGER  
3 Deputy Commissioner  
MIRANDA L. MAISON (CA BAR NO. 210082)  
4 Senior Corporations Counsel  
Department of Corporations  
5 1515 K Street, Suite 200  
6 Sacramento, California 95814  
Telephone: (916) 322-8730  
7 Facsimile: (916) 445-6985

8 Attorneys for Complainant  
9

10 BEFORE THE DEPARTMENT OF CORPORATIONS  
11 OF THE STATE OF CALIFORNIA  
12

13 In the Matter of THE CALIFORNIA )  
CORPORATIONS COMMISSIONER, )

14 Complainant, )

15 vs. )

16 YAKETY YAK WIRELESS, INC., )

17 Respondent. )

OAH Case No.: 2009060636

) STIPULATION AND AGREEMENT OF  
) YAKETY YAK WIRELESS, INC.  
) TO:

- 18 ) (1) DESIST AND REFRAIN FROM
- 19 ) VIOLATION OF THE CALIFORNIA
- 20 ) FRANCHISE INVESTMENT LAW
- 21 )
- 22 ) (2) CONSENT TO ISSUANCE OF ORDER
- 23 ) REVOKING EFFECTIVENESS OF
- 24 ) FRANCHISE REGISTRATION
- 25 )
- 26 ) (3) CONSENT TO ISSUANCE OF ORDER
- 27 ) DENYING EFFECTIVENESS OF
- 28 ) FRANCHISE RENEWAL APPLICATION
- )
- ) (4) PAY CITATIONS, ATTORNEYS' FEES
- ) AND COSTS TO COMMISSIONER
- )
- ) (5) MAKE PAYMENTS AND PROVIDE
- ) OTHER ANCILLARY RELIEF TO
- ) FRANCHISEES, AS SPECIFIED HEREIN
- )
- )

1 IT IS HEREBY STIPULATED BY AND AGREED BETWEEN RESPONDENT YAKETY  
2 YAK WIRELESS, INC. (“YAKETY YAK”) AND PRESTON DUFAUCHARD, COMMISSIONER  
3 OF CORPORATIONS OF THE STATE OF CALIFORNIA (“COMMISSIONER”), AS FOLLOWS:  
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5 **RECITALS**

6 A. At all relevant times, Yakety Yak was an Arizona corporation engaged in business  
7 activities relating to the franchising of Yakety Yak retail outlets offering telecommunications  
8 provider services. Yakety Yak’s principal business address is 3400 Irvine Avenue, Suite 118,  
9 Newport Beach, California, 92660;

10 B. Yakety Yak’s parent company, Yakety Yak Holdings, Inc. (“YYHI”), is an Arizona  
11 corporation also doing business at the same address;

12 C. Dave Timlin was named the Chief Executive Officer (“CEO”) of Yakety Yak in  
13 February 2007, succeeding Yuvi Shmul who had served as Yakety Yak’s CEO since the franchise’s  
14 inception in June 2005. Presently, Timlin acts as Yakety Yak’s principal officer in fact, exercising  
15 management responsibility and control with regard to all facets of its operations, including the  
16 offering of franchises by the company;

17 D. Yakety Yak maintained a registration to offer and sell franchises in California, which  
18 was registered by the Commissioner pursuant to the Franchise Investment Law of the State of  
19 California (California Corporations Code §§ 31100 *et seq.*). At all relevant times, Yakety Yak  
20 conducted its franchising operations from its principal place of business in California;

21 E. On April 14, 2009, the Commissioner issued against Yakety Yak: (1) Statement in  
22 Support of Stop Order Revoking Effectiveness of Franchise Registration and Order Revoking  
23 Effectiveness of Franchise Registration; (2) Statement in Support of Stop Order Denying  
24 Effectiveness of Franchise Registration and Order Denying Effectiveness of Franchise Registration;

1 (3) Citations; (4) Desist and Refrain Order; and, (5) Ancillary Relief. An amended statement was  
2 filed on September 16, 2009. True and correct copies of the above pleadings are attached and hereby  
3 incorporated by reference as “Exhibit A” or the “Enforcement Action”;

4  
5 F. Pursuant to the request of Yakety Yak, a hearing concerning the allegations set forth in  
6 the Commissioner’s Enforcement Action is presently set for February 2-4 and 9-11, 2010, at the Los  
7 Angeles Office of Administrative Hearings;

8 G. Without admitting the charges alleged in the Commissioner’s Enforcement Action,  
9 Yakety Yak seeks to resolve the concerns of the Commissioner and charges alleged in the  
10 Enforcement Action by entering into this Stipulation and Agreement (“Agreement”);

11  
12 NOW WHEREFORE, in consideration of the foregoing, and the terms and conditions set  
13 forth herein, the Commissioner and Yakety Yak (“the Parties”) agree as follows:

14 **TERMS AND CONDITIONS**

15  
16 1. Purpose. The purpose of this Agreement is to resolve the concerns of the Commissioner and the  
17 charges alleged in the Enforcement Action in a manner that avoids the expense of a hearing and  
18 possible further court proceedings, is in the public interest, protects investors, and is consistent with  
19 the purposes, policies and provisions of the California Franchise Investment Law (“FIL”).

20  
21 2. Waiver of Hearing Rights. Solely as set forth in the Enforcement Action, and as otherwise set  
22 forth in this Agreement, Yakety Yak hereby waives the right to a hearing, and to any reconsideration,  
23 appeal, or other right to review which may be afforded pursuant to the FIL, the California  
24 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law,  
25 and by waiving such rights, Yakety Yak consents to the Agreement becoming final.

26  
27 3. Dismissal with Prejudice of Request for Administrative Hearing. Effective immediately, Yakety  
28 Yak withdraws its request for an administrative hearing on all pending actions referenced herein.

1 4. Stipulations Not Binding in Third Party Actions. Yakety Yak stipulates to the provisions of this  
2 Agreement solely for the limited purposes of resolving the Enforcement Action and the proceeding(s)  
3 that have been or may be initiated by or brought before the Commissioner against Yakety Yak. This  
4 Agreement shall have no binding effect in any other case or proceeding and does not preclude the  
5 parties of any such case or proceeding from considering any payment to any franchisees or area  
6 developers as set-off. This Agreement is entered into solely as a matter of compromise of a disputed  
7 claim. Yakety Yak does not admit to any of the findings or conduct averred in the Enforcement  
8 Action. Nothing in this Agreement, including the waiver of rights to appeal or seek reconsideration,  
9 shall be considered as an express or implied admission of any kind. This Agreement is to be  
10 construed and treated as a settlement and offer of compromise pursuant to California Evidence Code  
11 Section 1152.

12 5. Stipulation to Desist and Refrain Order. Yakety Yak understands and agrees that the Desist and  
13 Refrain Order remains in full effect and that it cannot make any statement or representation that is  
14 inconsistent with this Agreement or the Desist and Refrain Order. Specifically, Yakety Yak  
15 stipulates to desist and refrain from the following violations of the FIL:  
16

- 17 a. Making unregistered, non-exempt offers to sell a franchise in violation of Corporations  
18 Code section 31110. Yakety Yak agrees to not violate section 31110 by offering or selling  
19 any franchise in this state unless the offer has been registered with the Commissioner or  
20 exempted from registration pursuant to the provisions of the FIL;
- 21 b. Making material misstatements or omissions in a franchise registration application filed  
22 with the Commissioner in violation of Corporations Code section 31200. Yakety Yak agrees  
23 to not violate section 31200 by willfully making any untrue statement of a material fact in any  
24 application, notice or report filed with the Commissioner under the FIL, or willfully omitting  
25 to state in any such application, notice or report any material fact which is required to be  
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1 stated therein, or failing to notify the commissioner of any material change as required by  
2 section 31123; and,

3 c. Failing to notify the Commissioner of material changes made to the terms of the registered  
4 franchise offer in violation of Corporations Code section 31123. In compliance with section  
5 31123, Yakety Yak agrees to notify the commissioner promptly in writing, by an application  
6 to amend the registration, of any material change in the information contained in the  
7 application as originally submitted, amended or renewed.  
8

9 6. Finality of Desist and Refrain Order. Yakety Yak agrees to the finality of the Desist and Refrain  
10 Order and voluntarily waives all rights to reconsideration, appeal, or other rights which may be  
11 afforded pursuant to Corporations Code section 31406, or any other provision of law in connection  
12 with these matters, including but not limited to Government Code sections 11521 and 11523, and any  
13 writ proceeding in accordance with the Code of Civil Procedure. Yakety Yak further agrees not to  
14 represent that this Stipulation is a withdrawal of the Desist and Refrain Order, but may represent that  
15 this Agreement is a settlement of, and resolves, the charges alleged by the Commissioner in the  
16 Enforcement Action.  
17

18 7. Payment of Citations. Yakety Yak hereby agrees to pay the sum of FIVE THOUSAND  
19 DOLLARS (\$5,000) in full satisfaction of citations assessed pursuant to the Enforcement Action.  
20 The payment of citations (“Citation Payment”) shall be due no later than thirty (30) calendar days  
21 after the effective date of this Agreement. The Citation Payment shall be paid by cashier’s check to  
22 the “California Department of Corporations” and must be sent via certified mail to: Miranda Maison,  
23 Senior Corporations Counsel, Department of Corporations, Enforcement Division, 1515 K Street,  
24 Suite 200, Sacramento, California, 95814. Payment shall be deemed to be timely made if deposited  
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1 with the U.S. Postal Service at least one (1) business day prior to the due date and mailed in  
2 accordance with this Paragraph. Yakety Yak agrees that failure to timely pay the Citation Payment  
3 pursuant to this paragraph shall be a breach of this Agreement, and citations in the sum of \$75,000  
4 shall be immediately due and payable to the Department pursuant to the Commissioner's  
5 Enforcement Action. Yakety Yak acknowledges that in the event of breach of this Agreement, the  
6 Commissioner retains all rights which may be afforded under the FIL, the California Administrative  
7 Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection  
8 therewith, to pursue collection of the full citation amount of \$75,000 plus ten percent (10%) interest  
9 per annum.  
10

11  
12 8. Consent to Issuance of Final Order Revoking Franchise Registration. The Parties agree that this  
13 Agreement shall have the effect of finalizing the April 14, 2009 Order Revoking Franchise  
14 Registration ("Revocation Order"), which registration was effective through April 20, 2009. Yakety  
15 Yak stipulates that the Revocation Order was effective as of April 14, 2009, and shall become final  
16 upon the signing by the Parties to this Agreement. The Revocation Order is a public record and shall  
17 remain posted on the Department of Corporation's website together with a copy of this Agreement.

18 9. Consent to Issuance of Final Order Denying Franchise Registration Application. The Parties  
19 agree that this Agreement shall have the effect of finalizing the April 14, 2009 Order Denying  
20 Effectiveness of Franchise Registration Application ("Denial Order"), which application was filed by  
21 Yakety Yak on March 30, 2009. Yakety Yak stipulates that the Denial Order was effective as April  
22 14, 2009, and shall become final upon the signing by the Parties to this Agreement. The Denial  
23 Order is a public record and shall remain posted on the Department of Corporation's website together  
24 with a copy of this Agreement.

25  
26 10. Future Franchise Applications. The Parties agree that Yakety Yak shall not be eligible to file an  
27 application with the Commissioner for the registration of a franchise until three (3) years from the  
28 effective date of this Agreement, as defined in Paragraph 22. Yakety Yak agrees that any application

1 filed by Yakety Yak prior to such date will be summarily denied pursuant to this Agreement. If on or  
2 after three (3) years from the effective date of this Agreement, Yakety Yak files application(s) for  
3 franchise registration under the FIL, it understands that such application must be made in accordance  
4 with the FIL, including the disclosure document required under Corporations Code section 31114.

5 Any application filed by Yakety Yak on or after three (3) years from the effective date of this  
6 Agreement shall not be denied solely based upon the allegations set forth in the  
7 present Enforcement Action, or any fact, circumstance, act or omission which the Commissioner, his  
8 counsel, his investigators, or his agents had notice of in the course of the Enforcement Action or any  
9 investigation relating to the Enforcement Action. Subject to the foregoing, Yakety Yak understands  
10 that all applications shall be considered for approval pursuant to the provisions of the FIL. In the  
11 event that any affiliate disclosed in Item 1 or principal disclosed in Item 2 of any franchise  
12 application previously filed by Yakety Yak wishes to apply for registration of any other franchise  
13 other than Yakety Yak, or any other filing, with the California Department of Corporations, the  
14 current Enforcement Action may be considered as a factor in determining the approval of such  
15 registration or application in accordance with the provisions of the FIL, or any other applicable law.

16  
17 11. Effect of Breach on Paragraphs 13 and 14 on Future Franchise Filings. The Commissioner  
18 hereby consents to this Agreement provided that all the conditions stipulated or expressed herein are  
19 met. Yakety Yak agrees that if it fails to issue payment pursuant to the terms of Paragraphs 13 and  
20 14 of this Agreement, the Commissioner will not allow registration of the franchise; and, any rights  
21 to a hearing regarding such registration and to any reconsideration, appeal, or other rights which may  
22 be afforded pursuant to the FIL, the California Administrative Procedure Act, the California Code of  
23 Civil Procedure, or any other provision of law in connection therewith, are hereby waived.

24  
25 12. Future Actions by the Commissioner. No future enforcement action shall be brought by the  
26 Commissioner solely for any act(s) or omission(s) which are based upon the allegations set forth in  
27 the present Enforcement Action, or any fact, circumstance, act or omission which the Commissioner,  
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1 his counsel, his investigators, or his agents had notice of in the course of the Enforcement Action or  
2 any investigation relating to the present Enforcement Action. The Parties acknowledge that there  
3 may be facts, circumstances, acts or omissions that are unknown or of which the legal consequence is  
4 not presently known, and the Commissioner acknowledges that this paragraph has been negotiated  
5 and agreed upon in light of this situation. However, this Agreement shall not serve to exculpate or  
6 indemnify Yakety Yak or any of its affiliates, partners, employees or successors from liability for any  
7 future violations of the FIL. Yakety Yak acknowledges and agrees that the Agreement shall not be  
8 the exclusive remedy available to the Commissioner in pursuing future violations but may be sought  
9 and employed in addition to any other remedy available pursuant to the FIL.

10 13. Payments to California Unit Franchisees. Yakety Yak hereby agrees to make payment of \$1,000  
11 to each California unit franchisee that purchased one (1) or more stores or units. Payments owed to  
12 franchisees pursuant to this provision shall be paid in minimum monthly installments of \$250 and  
13 shall be due on or before the 20<sup>th</sup> day of each month, in accordance with the time frames set forth in  
14 the payment schedule attached and incorporated herein as "Exhibit B." The total sum owed to each  
15 franchisee shall be paid in full no later than July 1, 2010. The terms of this provision shall apply to  
16 all California unit franchisees, including any that are eligible but may have been omitted from  
17 "Exhibit B," according to reasonable proof. Payment owed to any franchisee that cannot be  
18 reasonably located by Yakety Yak within 90 days of execution of this Agreement shall escheat to the  
19 State of California. Unless Yakety Yak receives written notice of a change not less than 30 days  
20 prior to the issuance of a payment, all payments shall be sent to each active unit franchisee at their  
21 "Yakety Yak" store and payments shall be sent to all former unit franchisees to the last address  
22 provided to Yakety Yak by the franchisee.

23 14. Payments to California Area Developer Franchisees. Yakety Yak hereby agrees to make  
24 payment in the amount of \$2,000 to each California area developer franchisee. Payments owed to  
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1 area developer franchisees pursuant to this provision shall be paid in minimum monthly installments  
2 of \$500 and shall be due on or before the 20<sup>th</sup> day of each month, in accordance with the time frames  
3 set forth in the payment schedule attached and incorporated herein as "Exhibit B." The total sum  
4 owed to each franchisee shall be paid in full no later than July 1, 2010. The terms of this provision  
5 shall apply to all California area developer franchisees, including any that are eligible but may have  
6 been omitted from "Exhibit B," according to reasonable proof. Payment owed to any franchisee that  
7 cannot be reasonably located by Yakety Yak within 90 days of execution of this Agreement shall  
8 escheat to the State of California. Unless Yakety Yak receives written notice of a change not less  
9 than 30 days prior to the issuance of a payment, all payments shall be sent to each active area  
10 developer to the address currently used by Yakety Yak and payments to former area developers shall  
11 be sent to the last address provided to Yakety Yak by the franchisee.

12 15. Effect of Breach of Agreement. Yakety Yak acknowledges that any breach of this Agreement,  
13 unless cured, and following written notice thereof from the Commissioner and fifteen (15) calendar  
14 days to cure any such breach or provide evidence of payment, including but not limited to failure to  
15 timely issue any payment pursuant to Paragraphs 13 and 14 above, shall be cause for the  
16 Commissioner to immediately revoke any registrations held by, and/or deny any pending  
17 application(s) of Yakety Yak, its successors and assigns, by whatever names they might be known,  
18 and/or any company owned or controlled by Yakety Yak. Yakety Yak hereby waives any notice and  
19 hearing rights to contest such revocations and/or denial(s) which may be afforded under the FIL, the  
20 California Administrative Procedure Act, the California Code of Civil Procedure, or any other  
21 provision of law in connection therewith. If Yakety Yak fails to make complete and timely payment  
22 in strict accord with the terms of Paragraphs 13 and 14, then Yakety Yak must immediately pay each  
23 California franchisee identified in "Exhibit B" the entire amount of the initial franchise fees actually  
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1 paid by the franchisee to Yakety Yak, less any amounts paid under Paragraphs 13 or 14, as  
2 applicable.

3 16. Compliance Reports. Yakety Yak agrees to submit a written report to the Commissioner listing  
4 the issuance dates and check numbers of all payments made to every California franchisee in  
5 compliance with Paragraphs 13 and 14 (“Compliance Report”). The Compliance Report must be  
6 filed with the Commissioner no later than August 1, 2010. The Compliance Report must be sent via  
7 certified mail to: Miranda Maison, Senior Corporations Counsel, Department of Corporations,  
8 Enforcement Division, 1515 K Street, Suite 200, Sacramento, California, 95814. The Compliance  
9 Report shall be deemed to be timely delivered if deposited with the U.S. Postal Service at least one  
10 (1) business day prior to the due date and mailed in accordance with this paragraph.  
11

12 17. Right of California Franchisees to Terminate Franchise Agreements. By delivery of this  
13 Agreement to each current California franchisee as provided in Paragraph 23, Yakety Yak hereby  
14 offers to each such California franchisee the option to terminate its franchise agreement without cost  
15 under the franchise agreement. Any franchisee that elects to terminate its franchise agreement  
16 pursuant to this provision must inform Yakety Yak in writing by not later than thirty (30) calendar  
17 days after certified mail delivery receipt of this Agreement, and thereafter must refrain from the use  
18 of the Yakety Yak brand or mark within thirty (30) calendar days following notice of termination.  
19 Further, Yakety Yak agrees to fully forgive and waive all due but unpaid royalties, transfer or  
20 renewal fees, and/or administration costs owed by each self-terminating franchisee as of the effective  
21 date of this Agreement.  
22

23 18. Waiver of Transfer Fees. Yakety Yak represents that it has not collected transfer fees from a  
24 California franchisee during the period of April 14, 2009 through the date of execution of this  
25 Agreement. Yakety Yak agrees to waive its right to assess and collect transfer or assignment fees  
26 from any California franchisee that has transferred or assigned its store(s) or territories, with or  
27 without the consent of Yakety Yak, during the period of April 14, 2009 through the date of execution  
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1 of this Agreement. Additionally, Yakety Yak agrees to waive its right to assess or collect any  
2 transfer or assignment fees from any California franchisee that elects to transfer or assign its store(s)  
3 or territories within one year (365 days) from the date of execution of this Agreement. Any  
4 franchisee that elects to exercise such option pursuant to this provision must complete the transaction  
5 and inform Yakety Yak in writing of such election no later than one year (365 days) from the date of  
6 execution of this Agreement.  
7

8 19. Franchise Law Compliance Education. Yakety Yak shall complete annual franchise law  
9 compliance training through the International Franchise Association (“IFA”). Required annual  
10 education shall consist of no less than eight (8) hours of live training by an IFA-approved educator  
11 (live training may be conducted by video or audio conference where all parties can be heard) on the  
12 subject of franchisor compliance with state and federal laws. Each principal officer and employee  
13 identified in Item 2 of the then-current (i.e., current as of the date training is obtained) Uniform  
14 Franchise Disclosure Document filed by Yakety Yak in California, and any in-house legal counsel or  
15 compliance officer(s) employed by Yakety Yak, are required to complete the annual training, at the  
16 expense of Yakety Yak. An IFA-certified roster of attendees evidencing the annual education  
17 requirements have been met by every person subject to this provision shall be filed with the  
18 Commissioner no later than July 1 of each year. This provision shall be in effect until December 31,  
19 2015. Notwithstanding the foregoing, persons that are only corporate shareholders of Yakety Yak  
20 and that are neither employees nor officers of Yakety Yak listed in Item 2 shall not be required to  
21 complete annual training.  
22

23 20. Commissioner’s Duties. Yakety Yak acknowledges and agrees that nothing contained in this  
24 Agreement shall operate to limit the Commissioner’s ability to assist any other agencies with any  
25 administrative, civil or criminal prosecution brought by any such agency against Yakety Yak based  
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1 upon any of the activities alleged in this matter or otherwise. Yakety Yak further agrees that this  
2 Agreement shall not bind or otherwise prevent any other federal, state or county agency from the  
3 performance of its duties.

4  
5 21. Settlement Agreement Coverage. The Parties hereby acknowledge and agree that this  
6 Agreement is intended to constitute a full, final and complete resolution of the Enforcement Action  
7 referenced above. Yakety Yak understands and agrees that this Agreement pertains only to Yakety  
8 Yak and is not intended by the Parties to address or resolve any of the enforcement actions taken by  
9 the Commissioner against any other respondent named in "Exhibit A," including Play N Trade  
10 Franchise, Inc., Yuvi Shmul and Thomas C. Bozarth.

11  
12 22. Effective Date. This Agreement shall not become effective until the Agreement has been signed  
13 and delivered by all parties. The Commissioner shall file this Agreement with the Office of  
14 Administrative Hearings five days (5) after execution by the parties.

15  
16 23. Service of Agreement to Franchisees. Yakety Yak agrees to make reasonable efforts to send by  
17 certified mail a complete copy of this Agreement, including all Exhibits attached hereto, to every  
18 former and current California franchisee no later than fifteen (15) business days after the effective  
19 date of this Agreement. No later than fifteen (15) business days thereafter, Yakety Yak shall provide  
20 the Commissioner with a list identifying the names and addresses of each franchisee that was served  
21 a copy of this Agreement in compliance with this provision. Any correspondence that is returned as  
22 undeliverable shall also be specified in the report to the Commissioner required under this provision.

23  
24 24. Material Modification. The Parties acknowledge that certain terms of this Agreement may  
25 require Yakety Yak to solicit a modification of a franchise agreement in California and, if accepted  
26 by the applicable franchisee, may constitute the sale or modification of franchise agreement, each of  
27 which would require registration under the FIL (including Corporations Code section 31125) absent  
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1 an exemption. The Commissioner and Yakety Yak agree that the modifications to franchise  
2 agreements required by this Agreement are offered on a voluntary basis and do not substantially and  
3 adversely impact the franchisee's rights, benefits, privileges, duties, obligations or responsibilities  
4 under the franchise agreement. Thus, Yakety Yak and the Commissioner agree that registration of  
5 any modification expressly specified in this Agreement is not required under Corporations Code  
6 section 31125(d).  
7

8 25. Full Integration. This Agreement, including the attached exhibits, is the final written expression  
9 and the complete and exclusive statement of all the agreements, conditions, promises,  
10 representations, and covenants between the parties with respect to the subject matter hereof, and  
11 supersedes all prior or contemporaneous agreements, negotiations, representations, understandings,  
12 and discussions between and among the parties, their respective representatives, and any other person  
13 or entity. Each of the parties represents, warrants, and agrees that in executing this Agreement it has  
14 relied solely on the statements set forth herein and has placed no reliance on any statement,  
15 representation, or promise of any other party, or any other person or entity not expressly set forth  
16 herein, or upon the failure of any party or any other person or entity to make any statement,  
17 representation or disclosure of anything whatsoever. The parties have included this clause: (1) to  
18 preclude any claim that any party was in any way fraudulently induced to execute this Agreement;  
19 and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the  
20 terms of this Agreement.  
21

22 26. No Presumption From Drafting. In that the parties have had the opportunity to draft, review and  
23 edit the language of this Agreement, no presumption for or against any party arising out of drafting  
24 all or any part of this Agreement, or the request or denial of any particular proposed provision in  
25 negotiations, will be applied in any action relating to, connected, to, or involving this Agreement.  
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1 Accordingly, the parties waive the benefit of California Civil Code Section 1654 and any successor  
2 or amended statute, providing that in cases of uncertainty, language of a contract should be  
3 interpreted most strongly against the party who caused the uncertainty to exist.  
4

5 27. Counterparts. This Agreement may be executed in any number of counterparts by the parties and  
6 when each party has signed and delivered at least one such counterpart to the other party, each  
7 counterpart shall be deemed an original and taken together shall constitute one and the same  
8 Agreement.

9 28. Modifications and Qualified Integration. No amendment, change or modification of this  
10 Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the  
11 parties affected by it.  
12

13 29. Headings and Governing Law. The headings to the paragraphs of this Agreement are inserted for  
14 convenience only and will not be deemed a part hereof or affect the construction or interpretation of the  
15 provisions hereof. This Agreement shall be construed and enforced in accordance with and governed  
16 by California law.  
17

18 30. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it has  
19 received independent legal advice from an attorney with respect to the advisability of executing this  
20 Agreement.  
21

22 31. Authority for Settlement. Each party covenants that they possess all necessary capacity and  
23 authority to sign and enter into this Agreement. Each party warrants and represents that such party is  
24 fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and without  
25 limiting the generality of the foregoing, each party warrants and represents that it is fully entitled to  
26 enter into the covenants, and undertake the obligations set forth herein.  
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1 32. Public Record. Yakety Yak acknowledges that this Agreement, and the attachments thereto, is a  
2 public record.

3 33. Voluntary Agreement. The parties each represent and acknowledge that he, she or it is executing  
4 this Agreement completely voluntarily and without any duress or undue influence of any kind from  
5 any source.  
6

7 34. Notices. Notice shall be provided to each party at the following addresses:

8 If to Respondent: Dave Timlin, CEO  
9 Yakety Yak Franchise, Inc.  
10 3400 Irvine Avenue, Suite 118  
11 Newport Beach, California 92660

12 If to the Commissioner: Miranda Maison, Senior Corporations Counsel  
13 Department of Corporations  
14 1515 K Street, Suite 200  
15 Sacramento, California 95814

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IN WITNESS WHEREOF, the parties hereto have approved and executed this Agreement on the  
dates set forth opposite their respective signatures.

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Dated: 2/8/10

PRESTON DuFAUCHARD  
California Corporations Commissioner

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By: \_\_\_\_\_

ALAN S. WEINGER  
Deputy Commissioner  
Enforcement Division

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YAKETY YAK WIRELESS, INC.

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16

Dated: 2-8-2010

By: \_\_\_\_\_

DAVE TIMLIN  
Chief Executive Officer

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Dated: \_\_\_\_\_

Approved as to form by: \_\_\_\_\_

THOMAS FRANCIS, ESQ.  
Attorney for Respondent Yakety Yak  
Wireless, Inc.

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