

## BULK REPACKAGING AGREEMENT

This Bulk Repackaging Agreement ("**Agreement**") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between TENKOZ ("**Tenkoz**"), having its principal offices at 100 North Point Center East Suite 330, Alpharetta, GA 30022, and acting through its appointed Distributor Agent \_\_\_\_\_ ("**Distributor Agent**") having its principal office located at \_\_\_\_\_, and Retailer \_\_\_\_\_ ("**Retailer**") having its principal offices at \_\_\_\_\_.

Print Retailer Name

Print Complete Retailer Address

**Retailer** acknowledges that its full and continuous compliance with the terms and conditions of this Agreement is a continuing requirement to the non-exclusive authorization to repackage bulk products and to use proper pesticide labels in connection with such repackaging.

- Authority to Repackage. Retailer agrees to package and label one or more of the following products ("**Products**"):

Product	EPA Registration Number
Brawl	100-816-55467
Brawl II	100-818-55467
Brawl II ATZ	100-817-55467

TENKOZ reserves the right to reissue the Product Authorization Notice from time to time as TENKOZ, in its sole discretion deems necessary. Retailer shall repackage only the Products under this Agreement at Retailer's bulk facility located at:

Print Complete Bulk Facility Location Address

EPA Establishment No. \_\_\_\_\_

EPA Establishment Number

This Agreement shall not obligate TENKOZ or Distributor Agent to ship or sell any minimum quantity of Product to Retailer.

2. Modification of Authority. TENKOZ reserves the right in its sole discretion and at any time upon notice to Retailer to change, limit or terminate the services provided by Retailer with respect to any specific Product. In the event TENKOZ changes, limits or terminates Retailer's authority to repackage one or more Products, or this Agreement expires or is terminated for any reason, Retailer shall immediately cease the repackaging of the Products it no longer has authority to repackage and shall return to TENKOZ all Labels not already used for the repackaging of such Products. Additionally, Retailer and TENKOZ shall cooperate in the appropriate disposition of Retailer's existing inventory of such Products as of such expiration or termination, including, at TENKOZ' option, TENKOZ' repurchase of such Product. Notwithstanding the foregoing sentence, any contaminated or adulterated Product in Retailer's possession as of such termination shall be disposed as waste as provided in paragraph 4, below.

3. Product. Retailer shall supply all Product packaged hereunder from Product purchased from TENKOZ, sold through Distributor Agent. Risk of loss shall remain with Retailer at all times.

4. Containers, Product Integrity. **Products shall be repackaged only into containers having a rated capacity of greater than fifty-five (55) U.S. gallons, unless authorization for Small Volume Repackaging is provided for the specific Product on the TENKOZ Product Authorization Notice.** Retailer shall not permit any contamination or adulteration of Products repackaged hereunder. Without limiting Retailer's general responsibility, containers utilized for repackaging must be either (a) dedicated to Products containing the same active ingredient(s) or (b) thoroughly cleaned prior to each refilling in compliance with all applicable laws and regulations and any written guidelines provided by TENKOZ to Retailer, as may be revised by TENKOZ from time to time. Retailer shall manage, at its sole expense, any rinsate or waste in accordance with all applicable laws and regulations.

5. Labels, Trademarks. TENKOZ shall supply Retailer with Product labels ("Labels"), and Retailer agrees to use such Labels solely for the repackaging of the Products authorized hereunder. Retailer further agrees to use only Labels supplied by TENKOZ. Retailer acknowledges that the trademarks for the Products as indicated on the Labels and the name "TENKOZ" are all the exclusive property of TENKOZ. Retailer's authorization to use the Labels shall not constitute a trademark license in any form, and Retailer's use of the trademarks on the Labels shall inure solely to the benefit of TENKOZ. Retailer shall use the Labels only for the repackaging and resale of Products that are supplied directly by, or on behalf of, TENKOZ and which have not been altered in any way.

6. EPA Establishment. Retailer warrants that the Facility is registered with the United States Environmental Protection Agency pursuant to §7 of the Federal Insecticide, Fungicide and Rodenticide Act, §§136(a)-136(y), and that Retailer will take all actions necessary to maintain the validity of such EPA Establishment Number. Retailer shall promptly notify TENKOZ in the event the Facility no longer has or is threatened with loss of a valid EPA Establishment Number. Retailer will ensure that the EPA Establishment Number for the Facility is printed on all Labels for Products repackaged hereunder.

7. Equipment. Retailer agrees to maintain in place at the Facility, at its sole expense, storage tanks, mini-bulk containers, secondary containment and other equipment necessary and suitable for the safe receipt, storage, handling, repackaging and delivery of Products in accordance with all applicable laws and as described in local, state or federal regulations for bulk storage and handling guidelines.

8. Facility Inspection, Records. Retailer agrees to inspect each transfer tank and refuse to fill any tanks that (a) are more than six years old, (b) show signs of cracks, holes, dents, cuts, or other defects, (c) have tank fittings of polyvinyl chloride, (d) have fittings that show visible signs of leaking, or (e) are contaminated by other pesticides or other foreign material. Furthermore, retailer agrees to permit

TENKOZ and its agents, which include Distributor Agent, to inspect the Facility including all equipment, tanks and containers used in connection with the storage or repackaging of Products and to take such Product samples as TENKOZ may require. Retailer further agrees to maintain appropriate records relating to all Product repackaged including records tracking all quantities of Product repackaged, the date of all Product is repackaged, the purchaser of such repackaged Product and the date such repackaged Product is shipped as well as all records required to be maintained by law. Retailer agrees to make all such records available for inspection by TENKOZ or its agents at all reasonable times for a period of at least twelve (12) months following the creation of such records.

9. Compliance. Retailer represents and warrants that it is familiar with the procedures and has the level of expertise necessary for the safe and proper receipt, storage, handling, transportation and repackaging of bulk pesticides and that Retailer assumes full responsibility for the safe and proper receipt, storage, handling, transportation and repackaging of Products at the Facility. Retailer further represents and warrants that it understands and shall comply with all applicable federal, state and local laws and regulations pertaining to the transportation, handling, storage and repackaging of bulk pesticides. Retailer further agrees that Retailer may be periodically required to certify in writing its compliance with applicable laws and the terms of this Agreement. Retailer acknowledges that TENKOZ through its Distributor Agent is making bulk delivery of Products to Retailer in reliance upon Retailer's foregoing representations and warranties.

10. Indemnification. Except to the extent directly attributable to TENKOZ's or Distributor Agent's negligence, neither TENKOZ nor Distributor Agent shall be liable and Retailer shall indemnify and hold TENKOZ and Distributor Agent harmless for any loss, damage or injury to persons, the environment or property; any and all administrative, civil or criminal actions, liabilities, fines and penalties; and any and all costs and expenses, including reasonable costs and reasonable attorney's fees, arising out of or in any way relating to Retailer's activities in connection with its repackaging of the Products, Retailer's negligence or Retailer's disposal of rinsate or waste.

11. Insurance. Retailer shall maintain with reputable insurance companies comprehensive general public liability insurance, including products liability and completed operations hazard, in a minimum amount equal to at least One Million Dollars (\$1,000,000.00) for bodily injury and property damage liability. Upon request, Retailer shall promptly provide to TENKOZ certificates of insurance evidencing such insurance coverage.

12. TENKOZ's Warranties. TENKOZ warrants title and that the Products as delivered conform to the ingredient statement of the applicable Product Label. **Subject to the preceding sentence and except as otherwise expressly provided herein and on the Labels, neither TENKOZ nor Distributor Agent make no representation or warranty of any kind, express or implied, as to the merchantability, fitness for a particular purpose or any other matter with respect to the Products.**

13. Independent Contractor. In the performance by Retailer of any obligations contained herein, Retailer and its agents, employees and contractors shall be acting at all times as an independent contractor and not as an agent or representative of TENKOZ. Accordingly, Retailer has the sole responsibility for compliance with worker health and safety laws and all other federal, state and local laws and regulations applicable to its employees and their conduct.

14. Term and Termination. This Agreement shall commence as of the effective date stated above and shall continue in effect until December 31 of such calendar year (the "**Initial Term**"). This Agreement shall automatically renew for additional calendar-year terms unless either party gives written notice of non-renewal to the other party. This Agreement may be terminated by either party at any time on written notice to the address stated below. Retailer's obligations under paragraph 2 with respect to

Product disposition and Label return and its indemnification obligations under paragraph 11 shall survive the termination of this Agreement.

15. Assignment. This Agreement and the rights hereunder are not assignable by Retailer without the prior written consent of TENKOZ, which consent may be withheld in TENKOZ's sole discretion.

16. Agreement Construction. This Agreement constitutes the entire and exclusive understanding between the parties and supersedes all prior written and oral agreements, understandings or authorizations concerning the subject matter hereof. This Agreement may only be modified by an amendment, expressly stated as such, signed by all parties. If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement. The validity, interpretation and performance of this Agreement and any dispute connected herewith shall be governed by and construed in accordance with the laws of the State of Georgia without regard to its choice of laws provisions.

**The parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives effective as of the date first above written. A copy or telefacsimile transmission of a signature to this Agreement shall be equivalent for all purposes to an original signature of the same person.**

**Retailer's Name:** \_\_\_\_\_

**TENKOZ, Inc.**

By: \_\_\_\_\_  
(Authorized signature)

By: \_\_\_\_\_  
(Authorized signature)

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Distributor Agent:** \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signed Copies to:

- Distributor Agent
- Retailer
- Tenkoz