

FIRST AMENDED AND RESTATED SUBLICENSE AGREEMENT

THIS FIRST AMENDED AND RESTATED LICENSE AGREEMENT (the "Agreement") shall be effective on on October 27th, 2020 (the "Effective Date"), by and between Eight IP LLC (Licensor), a Georgia corporation, having a principal place of business at 860 Johnson Ferry Road, Suite 140156, Atlanta, Georgia 30342, and Element Nutrition. (Licensee), an Ontario Corporation, having a principal place of business at 1100 Walkers Line, Suite 401, Burlington, Ontario, Canada, L7N 2G3 (collectively the Parties).

WHEREAS, Licensor has rights to certain intellectual property rights described herein in **Exhibit A, Exhibit B and Exhibit C** that Licensee is desirous of licensing under the following terms and obligations.

ARTICLE 1 - DEFINITIONS

- 1.1 "Exclusive Channel of Trade" means the Adult Nutrition .
- 1.2 "Non-Exclusive Channel of Trade" means the and Sports Channel of Trade.
- 1.3 "Licensed Intellectual Property Rights" means the intellectual property listed in Exhibits A and B attached hereto.
- 1.4 "Licensed Patent Rights" means the existing and future patents and patent applications listed in **Exhibit A** attached hereto, and foreign equivalents of the same, including all original and national patent application filings, and continuation, divisional, and continuation-in-part patent applications and patents granted thereon, and all reissues, reexaminations, and extensions thereof.
- 1.5 "Licensed Products" means any dietary supplement product approved by Licensor containing the Reginator® ingredient and utilizing the Licensed Intellectual Property Rights supplied to Licensee by vendor approved by Licensor utilizing the Licensed Intellectual Property Rights. The Licensed Products specifically shall not include "Conventional Foods" or "Medical Foods" as those terms are defined by the FDA.
- 1.6 "Adult Nutrition Channel of Trade" means dietary supplement products sold to mass market retailers in vitamin, mineral and supplement section (VMS) directed at adults over 60 .
- 1.7 "MLM Channel of Trade" means, within the United States, the multi-level marketing channel as that term is defined by the United States Federal Trade Commission, and outside of the United States, any method of selling goods through independent distributors as is customarily utilized by Amway Corp. in that Country.
- 1.8 "Sports Channel of Trade" means marketing, sale, use and consumption efforts directed toward athletes.
- 1.9 "Territory" means the geographic area(s) listed in **Exhibit C** attached hereto.
- 1.10 "Valid Claim" means a claim of any active, unexpired trademark, patent or patent application which has not been withdrawn, canceled, or held invalid or unenforceable by a court or other tribunal of competent jurisdiction in a decision from which an appeal has not or cannot be made.
- 1.11 "Serving of Licensed Product" shall mean 3.6 grams of the Amino Blend Specification, which is embodied in the Licensed Intellectual Property Rights.
- 1.12 "Amino Blend Specification" shall mean the specification attached hereto as Exhibit A.
- 1.13 "Term" shall mean ten years from November 1st, 2020. Nevertheless, the Parties shall have the right to extend the term on mutual agreement in writing, which shall be known as a "Renewal Term".

ARTICLE 2 – GRANT

2.1 **Grant-Licensed Products** - Subject to the terms and conditions of this License Agreement, and subject to and subordinate to any prior License agreements issued by Licensor to any other licensee, Licensor grants to Licensee an exclusive, non-transferable and non-sublicensable right and license in the Territory and within the Exclusive Channel of Trade and a non-exclusive, non-transferable and non-sublicensable right and license in the Territory and within the Non-Exclusive Channel of Trade to manufacture, market and sell Licensed Products (the "License"). Notwithstanding the foregoing, nothing in this Agreement shall grant any right to the Licensee to market or sell any product in any channel of trade except for the Exclusive Channel of Trade or the Non-Exclusive Channel of Trade, including, without limitation, in the MLM Channel of Trade. For clarity, the License granted herein shall not prohibit the exercise of any rights given to any other licensee prior to the date of this Agreement, whether those licenses are expired or unexpired.

2.2 **Purchase Requirements and Minimum Purchases** – Licensee agrees to purchase all of its requirements of the dietary supplement amino acid blend embodied in the Licensed Intellectual Property Rights solely from a vendor approved in writing by both the Licensor and the Licensee from time to time ("Approved Vendor"), which approval shall not be unreasonably withheld. The Approved Vendor may be changed at any time in the discretion of the Licensor with the reasonable approval of the Licensee. In order to maintain its rights under this Agreement, and specifically the License under Section 2.1, above, Licensee must make minimum purchases and quarterly royalty payments under Section 2.4, below, of the Licensed Products each year of the Term, on a quarterly basis in accordance with the following schedule:

During the first year of the Term:	3,100,000 Servings of Licensed Product (775,000 servings per quarter)
During the second calendar year of the Term:	6,200,000 Servings of Licensed Product (1,550,000 servings per quarter)
During the third calendar year of the Term:	9,300,000 Servings of Licensed Product (2,325,000 servings per quarter)
During the fourth calendar year of the Term:	10,400,000 Servings of Licensed Product (2,600,000 servings per quarter)
By the end of the fifth calendar year of the Term:	13,500,000 Servings of Licensed Product (3,375,000 servings per quarter)
	By the end of the sixth calendar year of the Term:
	16,600,000 Servings of Licensed Product (4,150,000 servings per quarter)
During the seventh calendar year of the Term:	19,700,000 Servings of Licensed Product (4,925,000 servings per quarter)
During the eighth calendar year of the Term:	22,800,000 Servings of Licensed Product (5,700,000 servings per quarter)
During the ninth calendar year of the Term:	25,900,000 Servings of Licensed Product (6,475,000 servings per quarter)
During the tenth calendar year of the Term:	29,000,000 Servings of Licensed Product (7,250,000 servings per quarter)

At the end of the Term, the Parties will mutually agree to new minimums for any Renewal Term. If the Parties are unable to agree on new minimums, this Agreement shall automatically terminate at the end of the Term. Licensee shall be required to make minimum purchases or royalty payments on a quarterly basis in order to maintain the license under Section 2.1, above.

2.3 **Product Claims** – Licensee agrees not to make any claims about the Licensed Products that are not substantiated by competent and reliability scientific evidence.

"This provision relating to royalty payments has been redacted as disclosure would be seriously prejudicial to the interests of the issuer".

2.6 Payment on Signing. Licensee agrees to make a one time payment to Licensor of \$20,000 upon execution of this Agreement.

2.7 Proof of Purchases, Quarterly Reports and Audi Rights. Licensee agrees to furnish copies of all purchase orders to an Approved Vendor to the Licensor at the time that the Licensee issues the purchase order to the Approved Vendor. Licensee agrees that it shall grant Licensor the right to audit Licensee's and Licensee's Approved Vendor's books to confirm purchase orders and that all royalty payments have been timely made. The cost of any audit shall be borne by the Licensor, unless a discrepancy of more than 5% in favor of the Licensor is discovered, in which case the Licensee shall reimburse the Licensor for the cost of the audit. The Licensee shall provide Licensor with written reports, in a form acceptable to Licensor, within fifteen (15) days of the end of each calendar quarter showing the amount of product purchased by the Licensee, the amount of royalties owing, and the amount of any shortfall of the minimum purchase requirements of Section 2.2, above.

ARTICLE 3 – TERMINATION

3 Termination. Licensee's rights under Section 2.1 shall immediately terminate, all of Licensee's rights hereunder shall cease, and Licensee shall cease selling Licensed Products, at the earlier of the happening of any of the following events:

- (a) when Licensee is no longer selling the Licensed Products;
- (b) should any of the marketing materials used by Licensee to promote the Licensed Products, or any of the claims being made by Licensee about the Licensed Products, be determined by Licensor in its sole judgment not be supported by competent and reliable scientific evidence;
- (c) upon the sale of any Licensed Product in violation of license granted in Section 2.1;
- (d) upon any breach of Section 2.2, 2.3, 2.4, 2.5, 2.6 or 2.7;
- (e) upon the breach by Licensee of any other provisions of this Agreement, which breach is not cured within 30 days after Licensee is given notice thereof;
- (f) Licensee files a petition in bankruptcy, is adjudicated as bankrupt, or files a petition or otherwise seeks relief under or pursuant to any bankruptcy, insolvency or reorganization statute or proceeding, or if a petition in bankruptcy is filed against it or it becomes insolvent or makes an assignment for the benefit of its creditors, or a custodian, receiver or trustee is appointed for all or a substantial portion of Licensee's (as the case may be) business or assets or if the Licensee is unable to pay its debts and obligations when due;
- (g) Licensee fails to make the minimum purchases or royalty payments under Section 2.3, above;
- (h) If Licensor determines, in its sole discretion, that Licensee is in violation of any prior license issued by Licensor, Licensee may terminate this Agreement immediately;
- (i) At the conclusion of the Term of this Agreement, so long as the Licensee is not in breach, this Agreement shall automatically renew for subsequent ten year terms (the "Renewal Term" or "Renewal Terms") so long as the Parties agree upon minimum purchase requirements for each subsequent Renewal Term.

ARTICLE 4 – INDEMNIFICATION

4.1 Licensee to Indemnify Licensor with Respect to Sales of the Licensed Products. Licensee shall indemnify Licensor and hold Licensor harmless from and against any and all claims, demands, losses, damages, liabilities, costs and expenses arising out of the advertising, sale, promotion, use or other exploitation of the Licensed Products, except as described in Section 4.2. Licensee shall be responsible for obtaining any required third party intellectual property rights with respect to Licensee's formulation of Licensed Products. Licensee shall pay all expenses incurred by Licensor with respect to this indemnification as and when the expenses are incurred. Licensor may retain counsel to defend against any claims and Licensee will pay such counsel's fees and expenses to the extent that they are reasonable. Licensee will also pay any and all expenses and costs incurred by Licensor in enforcing its rights under this indemnification provision.

4.2 **Indemnity.** Licensee, using counsel of Licensor's choice (which shall be reasonably acceptable to Licensee), agrees to indemnify, hold harmless and defend Licensor from and against all losses, liabilities, claims, expenses and/or damages which Licensor may incur in connection with any alleged claim that the Licensed Products were falsely advertised or that the Licensed Products harmed any third party.

4.3 **Licensee to Report Infringement.** Licensee will promptly report to Licensor any knowledge of infringement of the Licensed Patent Rights or Licensed Intellectual Property Rights by a third party. Licensor shall in its sole discretion determine what, if any, notice or legal action shall be taken to enforce the rights against any third party. Licensee shall have no right of enforcement of the Licensed Patent Rights or Licensed Intellectual Property Rights.

4.4 **Licensee to Name Licensor as Additional Insured on Licensee's Insurance Policies.** Licensee will name Licensor as an additional insured on Licensee's commercial general liability insurance policies, including any excess and umbrella coverages, to include products liability coverage, and will maintain Licensor as an additional insured thereon for so long as Licensee is advertising or selling Licensed Products and for three years following the last sale of the Licensed Products.

ARTICLE 5 – MISCELLANEOUS

5.1 Representation and Warranties by Licensee

(a) Licensee represents and warrants that Licensee will conduct all necessary tests, comply with all applicable regulatory requirements, issue all appropriate warnings and information to subsequent purchasers and/or users, and be responsible for obtaining any required Third Party intellectual property rights with respect to the use by Licensee and its direct and indirect customers of the Licensed Products.

(b) Licensee will comply with all legal requirements, including but not limited to, all applicable laws, statutes, regulations, and treaties relating to the marketing, labelling, sale, storage, shipment, exportation and distribution of Licensed Product in the Territory, and relating to the performance of Licensee's duties and obligations under this Agreement. Licensee will comply with the United States Foreign Corrupt Practices Act (FCPA), and will not take any action that would cause Licensor to be in violation of the FCPA.

5.2 **Marking, Naming, Packaging and Comparative Advertising** - Licensee shall mark Licensed Products made, used, imported, or sold in the United States with appropriate U.S. patent numbers of the covering patents in Licensed Patent Rights, and, where applicable, any patent rights and marking as required by the local law of the jurisdiction where the Licensed Products are sold. Any trade name and packaging design for any Licensed Product by the Licensee must be approved, in advance of any marketing or sale of any Licensed Product, by the Licensor. The Licensor is prohibited from making any comparative advertising claims of any kind to any Licensed Product to any product licensed by Licensor to any other licensee of the Licensor.

5.3 **No Reverse Engineering** – Licensee, nor any of its owners, employees, officers or anyone affiliated or related to the Licensee, shall not reverse engineer or otherwise create, formulate, manufacture, market or sell any product that utilizes in any way the Licensed Intellectual Property.

5.4 **Survival** - Upon termination of this Agreement, all obligations of the Licensee with respect to indemnification, representations and warranties, confidentiality and no reverse engineering as well as any other provisions which by their nature are intended to survive any such termination, shall survive and continue to be enforceable.

5.5 **Notices** - Any notice required or permitted by this Agreement shall be in writing addressed to the Party to whom such notice is directed at the address given above.

5.6 **Reports** - Licensee shall provide to Licensor records of all sales of Licensed products with 60 days written notice.

5.7 **Governing Law** - This Agreement shall be construed and the rights of the parties hereunder shall be determined by the law of Nevada, except for its conflict of law provisions, and any action arising out of or related to this

agreement shall be brought exclusively in the State or Federal courts located in Clark County, Nevada, the exclusive jurisdiction of which the parties consent.

5.8 ***Integration*** - This writing constitutes the entire agreement between the parties relating to the subject matter hereof. There are no understandings, representations, or warranties of any kind except as expressly set forth herein. This Agreement shall supersede all prior agreements, including any agreements in writing, made prior to the date of this Agreement, with the exception of the Parties' mutual non-disclosure agreement, which shall remain in full force and effect.

5.9 ***Waiver*** - This Agreement may not be waived, altered, extended, or modified except by written agreement of the Parties.

5.10 ***Independent Contractors*** - The performance of the Parties hereunder is undertaken as an independent contractor and not as an agent or partner of the other party. Neither Party shall enter into or incur or hold itself out to third parties as having authority to enter into or incur on behalf of the other Party, any contractual obligation, expense, or liability whatsoever.

5.11 ***No Third Party Beneficiaries*** - The parties agree and intend that there are no third party beneficiaries or beneficiary rights created by this Agreement.

5.12 **Notices** - Any notices required hereunder shall be made in writing by letter mailed via first class mail to the persons listed below at the physical addresses listed below and by sending an email to the addresses listed below. Notice shall be deemed given on the date that the letter is mailed and the email is sent:

For Licensor:

C/O John Alkire
860 Johnson Ferry Road, Suite 140156
Atlanta, Georgia 30342
johna@zandallc.om

With a copy to:

Jason Kerr
Price, Parkinson & Kerr
5742 W. Harold Gatty Drive
Salt Lake City, Utah 84116
jasonkerr@ppktrial.com

For Licensee:

C/O Stuart Lowther
1100 Walkers Line Suite 401
Burlington, ON Canada L7N 2G3
slowther@elementnutrition.com

With copy to:

Dean Mosca
1100 Walkers Line Suite 401
Burlington, ON Canada L7N 2G3
dmosca@elementnutrition.com

5.13 **Counterparts** - This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have duly signed and have made delivery to the other.

EIGHT -IP LLC

Licensee

By: (signed) "John Alkire"

By: (signed) "Stuart Lowther"

Name: John Alkire

Name: Stuart Lowther

Title: Manager

Title: CEO

Date: 08-27-2020

Date: Oct, 26th 2020

EXHIBIT A

PATENT RIGHTS

Item No.	Patent or Pub. No.	Title	Country
1.	US PAT No. 9,364,463	USE OF AMINO ACID SUPPLEMENTATION FOR IMPROVED MUSCLE RECOVERY	USA, Patent Pending in Other Jurisdictions

EXHIBIT B

MISC. INTELLECTUAL PROPERTY RIGHTS

Know how to develop, source, formulate, manufacture and package the Amino Blend Specification that is the subject of this sub-license agreement

EXHIBIT C

TERRITORY

1. **Exclusive Worldwide except the following countries: Malaysia, Singapore, Thailand, Brunei, Philippines, Cambodia, Vietnam, Indonesia, Myanmar, Laos, Taiwan, Hong Kong and the Peoples Republic of China.**
2. **The licensee may sell in Malaysia, Singapore, Thailand, Brunei, Philippines, Cambodia, Vietnam, Indonesia, Myanmar, Laos, Taiwan, and Hong Kong, but on a non-exclusive basis.**
3. **For the Peoples Republic of China, Licensee may not market or sell Licensed Products, except as pre-approved in writing by Licensor.**

First Amendment to First Amended and Restated Sublicense Agreement

This First Amendment to the First Amended and Restated Sublicense Agreement between Eight IP LLC (Licensor) a Georgia limited liability company, having an address at 860 Johnson Ferry Road Atlanta, Georgia, 30342 and Element Nutrition (Licensee), an Ontario, Canada Corporation, having a principal place of business at 1100 Walkers Lane, Suite 401, Burlington, Ontario, Canada, L7N 2G3 dated October 27, 2020, is hereby amended as follows:

RECITALS AND DEFINITIONS

A. The First Amended and Restated Sublicense Agreement, as amended, is referred to herein as the "Agreement" and this First Amendment to the Agreement is referred to herein as the "First Amendment".

B. Licensor and Licensee are collectively referred to herein as the "Parties".

C. WHEREAS Licensee was obligated to make a payment to Licensor under the Agreement for sales made in November and December 2020.

D. WHEREAS Licensee failed to make the required payment in full and timely.

E. WHEREAS under the terms of the Agreement, the Agreement was terminated as a result of the Licensee failing to make the aforementioned payment in full.

F. WHEREAS Licensee's failure to make the required payment was inadvertent.

G. WHEREAS on or about March 9, 2021, Licensee made the required payment in full.

H. WHEREAS the next quarterly payment was due on March 31, 2021, but Licensee failed to make said payment in a timely manner.

I. WHEREAS Licensee intends to make the March 31, 2021 payment on or before April 15, 2021.

J. WHEREAS the Parties desire to reinstate and revive the Agreement with amendments as stated herein.

WHEREFORE, the Parties agree as follows:

1. The Agreement is hereby reinstated and revived as if never terminated, with all of the terms, conditions and requirements of the Agreement, as amended, remaining in full force and effect, except as amended herein.

2. Section 1.6 is deleted in its entirety and replaced with the following:

“Adult Nutrition Channel of Trade” means dietary supplement products and ready to drink shakes labeled as foods, sold in food, drug, and mass market retailers primarily marketed to adults over 60. This expressly does not include “medical foods” as that term is defined by the United States FDA.

“This provision relating to royalty payments has been redacted as disclosure would be seriously prejudicial to the interests of the issuer”.

4. Section 3(d) of the Agreement is deleted in its entirety and replaced with the Following:

(d) upon any breach of Section 2.2, 2.3, 2.4, 2.5, 2.6, or 2.7, except that in the event of a breach of Section 2.2, the Agreement shall not immediately terminate, but instead the License granted herein under Section 2.1 shall automatically be converted to a non-exclusive license, unless, however, during the fifteen (15) day period immediately following termination, the Licensee makes make-up payments necessary to make-up the minimum purchases required for the quarter during which the required payment was not made, in which case the exclusivity under Section 2.1 shall be reinstated. If the Licensee fails to make the necessary payments during the aforementioned fifteen (15) day period, the Licensee shall not have the right to reinstate the exclusivity. During any non-exclusive period the Licensor shall have the right to terminate the Agreement at any time upon written notice.

5. A new Section 5.14 shall be added as follows:

5.14 Non-Waiver. Except as otherwise expressly provided herein, no waiver of any covenant, condition, or provision of this Agreement shall be deemed to have been made unless expressly in writing and signed by the party against whom such waiver is charged; and (i) the failure of any party to insist in any one or more cases upon the performance of any of the provisions, covenants, or conditions of this Agreement or to exercise any option herein contained shall not be construed as a waiver or relinquishment for the future of any such provisions, covenants, or conditions, (ii) the acceptance of performance of anything required by this Agreement to be performed with knowledge of the breach or failure of a covenant, condition, or provision hereof shall not be deemed a waiver of such breach or failure, and (iii) no waiver by any party of one breach by

another party shall be construed as a waiver with respect to any other or subsequent breach.

IN WITNESS WHEREOF, the Parties have duly signed and made delivery to the other.

EIGHT IP LLC

By: (signed) "John Alkire"
Name: John Alkire
 AS CEO
Date: April 12, 2021

ELEMENT NUTRITION

By: (signed) "Stuart Lowther"
Name: **STUART A. LOWTHER**
Title: CEO
Date: April, 12, 2021