

TRADEMARK COEXISTANCE AGREEMENT

This Trademark Coexistence Agreement ("**Agreement**") is made by and between American Custom Golf Cars, Inc., a California Corporation, with offices located at 15740 El. Prado Rd. Chino CA ("**American**") and EZ Bike LLC a California Limited Liability Company, with offices located at 18870 Dukas, St. Porter Ranch, CA ("**E-Z**"), together the "Parties".

RECITALS

WHEREAS, American has been using the mark "MOKE" in the US in connection with electric vehicles that resemble all-terrain vehicles and automobiles;

A. **WHEREAS**, American contends it has been using the mark "MOKE" ("**MOKE**") in interstate commerce in the United States in connection with four-wheel electric vehicles that resemble all-terrain vehicles and automobiles.

B. **WHEREAS**, E-Z contends it has been using the mark "MOKI BIKE" ("**MOKI BIKE**") in interstate commerce in the United States in connection with electric bicycles.

C. **WHEREAS**, on or around August 20, 2015, E-Z caused to be filed United States Trademark Application, Serial No. 86730976 with the United States Patent and Trademark Office ("**USPTO**") for trademark registration of MOKI BIKE for the use on certain goods, specifically, motor vehicles, namely, low speed land vehicles and automobiles ("**MOKI BIKE Application**").

D. **WHEREAS**, on or around August 24, 2015, American caused to be filed United States Trademark Application, Serial No. 76718389 with the USPTO for trademark registration of MOKE for the use on certain goods, specifically, electric bicycles ("**MOKE Application**")

E. **WHEREAS**, on or around March 14, 2016, American initiated a proceeding before the Trademark Trial and Appeal Board in opposition to registration of MOKI BIKE, Proceeding No. 91226898 ("**Opposition**")

F. **WHEREAS**, American and E-Z have entered into an agreement to compromise and settle all claims, disputes and controversies which they may have or claim to have against one another, arising from or related to the MOKI BIKE Application, the MOKE Application and, the allegations and claims in the Opposition.

G. **WHEREAS**, American and E-Z contend that, subject to the restrictions and conditions set forth herein, their respective marks can coexist in the US marketplace without a likelihood of consumer confusion.

H. **WHEREAS**, the Parties contend that their respective use of the trademarks MOKE and MOKI BIKE or MOKI, in whole or in part, as applied to their respective goods, are not likely to be confused as to source, sponsorship, affiliation or association.

I. **WHEREAS**, American and E-Z desire to set forth their respective rights and obligations in the concurrent use of their respective marks pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Effective Date.** This agreement shall become effective as of the latest signature date as set forth below.
2. **Consents and Agreements Not to Challenge.**
 - 2.1. Provided that American is in compliance with this Agreement, E-Z consents to and shall not assert any challenge or bring any action (including but not limited to any action for trademark infringement, trademark dilution or unfair competition) based on American's worldwide use and registration of the trademark "MOKE" for motor vehicles, namely, four-wheel electric vehicles that resemble all-terrain vehicles and automobiles..
 - 2.2. Provided that E-Z is in compliance with this Agreement, American consents to and shall not assert any challenge or bring any action (including but not limited to any action for trademark infringement, trademark dilution or unfair competition) based on E-Z's worldwide use registration of the trademark "MOKI" and "MOKI BIKE" for electric bicycles and accessories related to electric bicycles, including batteries.
3. **Restrictions on Use and Registration of the Marks.**
 - 3.1. American agrees not to use the trademark MOKE in connection with bicycles and their accessories, including batteries.
 - 3.2. E-Z agrees not to use the trademark MOKI for four-wheel electric vehicles that resemble all-terrain vehicles and automobiles..
 - 3.3. E-Z will not take any action against American's use and registration of the trademark MOKE in connection with its registration and use in the field of four-wheel electric vehicles that resemble all-terrain vehicles and automobiles so as long as American is not in breach of this Agreement and American's use and registration of the trademark MOKE is limited to such goods and services.
 - 3.4. American will not take any action against E-Z's use and registration of the trademark MOKI or MOKI BIKE in connection with its registration and use in the field of electric bicycles and accessories, including batteries, so as long as E-Z is not in breach of this Agreement and E-Z's use and registration of the trademark MOKI and MOKI BIKE is limited to such goods and services.
4. **No Likelihood of Confusion.** The Parties acknowledge and agree that there is no likelihood of confusion by consumers based upon the following factors:
 - 4.1. The marks are dissimilar in their entirety as to appearance and commercial impression. Namely, American's mark, "MOKE" is spelled differently from E-Z's

marks, "MOKI BIKE" and "MOKI." In addition, American's mark is a design mark that is drastically different in appearance from E-Z's marks, especially when used in conjunction with the term "Bike," thus rendering different commercial impressions in the mind of the respective purchasers of the goods for each of the Parties.

- 4.2. The goods sold by each party under their respective mark(s) are very different and not closely related. Namely, American sells electric automobiles, specifically those identified as "Low Speed Vehicles" subject to Federal Motor Vehicle Safety Standards No. 500. Most states in the US that allow operation of such vehicles on public roads require they be registered as "Passenger Vehicles." In the alternative, E-Z sells electric bicycles that are not subject to the same rules and regulations as American's goods.
- 4.3. The relevant purchasers of the Parties' respective goods are different. Namely, American markets its vehicles exclusively through its already existing franchised dealer network in the US; American, while featuring its products on a website, does NOT sell directly to end users. On the contrary, E-Z markets its electric bicycles through third party distributors, its website and other direct-to-consumer methods. Moreover, the relevant purchasers are in a market for vastly different modes of transportation; namely, low speed vehicles resembling golf carts in the case of American versus electric bicycles in the case of E-Z. Thus, the types of customers that purchase the two Parties' goods differ substantially.
- 4.4. The Parties' goods are not sold through the same market channels. Namely, and as mentioned above, American markets and sells its goods exclusively through its already existing franchised dealer network. However, E-Z does not distribute any of its goods through any member of American's franchised dealer network. Thus, consumers will not encounter the Parties' respective products in the same marketing channels because each party will sell its products through different channels, utilizing its own business model and marketing partners focused on different technologies and applications.

5. **Mutual Undertakings.**

- 5.1. Further Action to Avoid Confusion. The Parties agree that they will not advertise or promote the goods under their respective marks in a manner that implies that such party or its goods are affiliated or connected with the other party or the other party's goods.
- 5.2. Cooperation in the Event of Actual Confusion. The Parties agree that if, in the unlikely event either party becomes aware of any actual consumer confusion resulting from the simultaneous use of the marks as permitted by this Agreement, such party shall advise the other party within a reasonable time thereafter of the details of such confusion, and the Parties shall take commercially reasonable steps to address the confusion and prevent its future occurrence.
- 5.3. Amendment of Applications and Registrations. Each party shall within five (5) days after execution of this Agreement by both Parties, execute and file in the United States Patent and Trademark Office all documents as necessary to amend any

existing trademark applications and registrations to comply with the terms of this Agreement.

6. **Representations and Warranties.** The Parties make the following representations and warranties:

5.1 Each Party agrees that this Agreement is freely, voluntarily, and validly executed and that each Party has entered into the Agreement with the advice of counsel.

5.2 Each Party is relying solely upon his or her own judgment and the judgment of each Party's own counsel in making this Agreement and has not been influenced by any representations or statements made by any other persons.

5.3 Each Party has the legal capacity and authority to enter into this Agreement.

7. **Assignment of Agreement and Marks.** This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and assigns.

8. **Term.** This Agreement shall continue in full force and effect without limitation of term.

9. **Miscellaneous.**

9.1. The terms of this Agreement shall be national in scope and shall be binding in the United States on the Parties, their affiliates, related companies, successors, assigns, and licensees.

9.2. This Agreement shall be governed by and construed under the laws of the United States and the State of California. The Parties hereby submit to the jurisdiction of, and waive any venue objections against, the United States District Court for the Central District of California; or before the United States Trademark Trial and Appeal Board, in any action arising out of this Agreement.

9.3. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter of this Agreement and merges all prior discussions between the Parties.

9.4. No waiver or modification to this Agreement shall be effective unless it in writing executed by both Parties.

9.5. Each Party represents to the other that the person signing this Agreement on its behalf is authorized to do so and to bind each respective Party hereto.

[REMAIDNER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURES ON THE FOLLOWING PAGE]

9.6. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

DATED: June __, 2016

EZ Bike LLC

By: _____

Its: _____

DATED: June 8, 2016

American Custom Golf Cars, Inc.

11 By: [Signature]

14 Its: RAY HOOPERLAND

President A.C.G.

APPROVED AS TO FORM ONLY

Dated: June __, 2016

EANDI LAW GROUP, APC

By: _____

Matthew J. Eandi
Counsel for EZ Bike, LLC

Dated: June 8, 2016

FITZPATRICK PC

By: [Signature]

William Fitzpatrick
Counsel for American Golf Cars, Inc.

9.6. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

DATED: June 12th, 2016

EZ Bike LLC

By: Sagi Lev-Ari

Its: CEO

DATED: June __, 2016

American Custom Golf Cars, Inc.

By: _____

Its: _____

APPROVED AS TO FORM ONLY

Dated: June 17, 2016

EANDI LAW GROUP, APC

By:  _____

Matthew J. Eandi
Counsel for EZ Bike, LLC

Dated: June __, 2016

FITZPATRICK PC

By: _____

William Fitzpatrick
Counsel for American Golf Cars, Inc.

TRADEMARK COEXISTANCE AGREEMENT

This Trademark Coexistence Agreement ("Agreement") is made by and between American Custom Golf Cars, Inc., a California Corporation, with offices located at 15740 El Prado Rd. Chino CA ("American") and EZ Bike LLC a California Limited Liability Company, with offices located at 18870 Dukas. St. Porter Ranch, CA ("E-Z"), together the "Parties".

RECITALS

~~WHEREAS, American has been using the mark "MOKE" in the US in connection with electric vehicles that resemble all terrain vehicles and automobiles;~~

A. **WHEREAS,** American contends it has been using the mark "MOKE" ("MOKE") in interstate commerce in the United States in connection with four-wheel electric vehicles that resemble all-terrain vehicles and automobiles; and

B. **WHEREAS,** E-Z contends it has been using the mark "MOKI BIKE" ("MOKI BIKE") in interstate commerce in the United States in connection with electric bicycles and the mark "MOKI" ("MOKI") in interstate commerce in the United States in connection with accessories related to electric bicycles; and

C. **WHEREAS,** on or around August 20, 2015, E-Z caused to be filed United States Trademark Application, Serial No. 86730976 with the United States Patent and Trademark Office ("USPTO") for trademark registration of MOKI BIKE for the use on certain goods, specifically, ~~motor vehicles, namely, low speed land vehicles and automobiles~~ electric bicycles ("MOKI BIKE Application"); and

D. **WHEREAS,** on or around August 24, 2015, American caused to be filed United States Trademark Application, Serial No. 76718389 with the USPTO for trademark registration of MOKE for the use on certain goods, specifically, ~~electric bicycles motor vehicles, namely, low speed land vehicles and automobiles~~ ("MOKE Application"); and

E. **WHEREAS,** on or around March 14, 2016, American initiated a proceeding before the Trademark Trial and Appeal Board in opposition to registration of MOKI BIKE, Proceeding No. 91226898 ("**Opposition**"); and

F. **WHEREAS,** American and E-Z have entered into an agreement to compromise and settle all claims, disputes and controversies which they may have or claim to have against one another, arising from or related to the MOKI BIKE Application, the MOKE Application and, the allegations and claims in the Opposition; and

G. **WHEREAS,** American and E-Z contend that, subject to the restrictions and conditions set forth herein, their respective marks can coexist in the US marketplace without a likelihood of consumer confusion; and