**CHECKLIST**

**DRAFTING JOINT PROMOTION AGREEMENTS**

 **Identification of Parties**

* Names
* Addresses

o **Definition of Property**

o **Definition of Products**

o **Promotional licence Grant**

* Definition of territory
* Creation of tie-in promotion

o **Term of Agreement**

* Extensions of term

o **Tie-In Promotion**

* Promotional product

o **Compensation**

* Promotional fee
* Audit

 **Obligations of the Parties**

* Minimum distribution
* Artwork creation
* Approval of artwork
* Sale or distribution of promotional product
* Disposal of promotional product

o **Advertising**

* Cost of advertising
* Source of advertising
* Approval of advertising
* Marking requirements
* Publicity material

 **Warranties and Obligations**

* Ownership and Non-infringement
* Best efforts to commercialise
* Responsibility for manufacture, sale, and distribution
* Product introduction and first shipment dates

o **Quality Control and Samples**

* Marking provisions of intellectual property laws
* Legal notices
* Quality standards
* Product approvals/types and frequency
* Preliminary artwork
* Final artwork
* Preproduction samples
* Production samples
* Periodically during production
* Inspection of facilities

o **Notice Provision**

o **Intellectual Property Rights**

* Obtaining intellectual property protection
* Acknowledgement of ownership
* Licensee estoppels
* Goodwill
* Secondary meaning acknowledgement
* Execution of documents

 **Termination**

* Immediate right to terminate
* Product introduction dates
* Fails to sell continually
* Fail to maintain insurance
* Bankruptcy or dissolution
* Unauthorised use of marks
* Timely payment of royalties
* Right to terminate the portion of agreement
* Right to terminate on notice for breach

o **Post-termination Rights**

* Inventory
* Sell-off period
* Cease selling
* Return of material

o **Goodwill**

o **Infringements**

* Party with initial right/secondary right
* Co-operation
* Responsibility for payment
* Responsibility for lead counsel
* Division of proceeds

o **Indemnification**

* Product liability
* Infringement

o **Insurance**

* Product liability
* Advertiser’s

o **Force Majeure**

o **Jurisdiction and Disputes**

o **Non-disclosure and Non-compete**

o **Binding on Successors**

o **Waiver**

o **Severability**

o **No Joint Venture**

o **Assignability**

o **Integration**

o **Execution and Dating by Parties**