



***Florida Department of State
Division of Corporations***

***Florida
Trademark – Service Mark
Registration and Use***

FOREWORD

The Division of Corporations of the Florida Department of State produces this booklet specifically for the convenience of those who frequently refer to Chapter 495, Florida Statutes. All history notes commonly found in the Florida Statutes have been omitted. This booklet is not an official published version of the Florida Statutes and is not intended to be considered as such.

The forms and instructions to register, cancel, renew and assign a Trademark or Service Mark are printed in the back of this booklet. We hope this publication will be helpful to you when filing with the Division of Corporations.

Division of Corporations

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495.001 Short title.—This chapter may be cited as the “Registration and Protection of Trademarks Act.”

495.011 Definitions.—As used in this chapter:

(1) “Abandoned” applies to a mark when either of the following occurs:

(a) When its use has been discontinued with intent not to resume such use. Intent not to resume use may be inferred from circumstances. Nonuse for 3 consecutive years shall constitute prima facie evidence of abandonment.

(b) When any course of conduct of the owner, including acts of omission or commission, causes the mark to lose its significance as a mark.

(2) “Applicant” means the person filing an application for registration of a mark under this chapter and the legal representatives, successors, or assigns of such person.

(3) “Certification mark” means any word, name, symbol, or device, or any combination thereof, used by a person other than the owner of the mark to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person’s goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.

(4) “Collective mark” means a trademark or service mark used by the members of a cooperative, an association, or other collective group or organization, and includes marks used to indicate membership in a union, an association, or other organization.

(5) “Department” means the Florida Department of State or its designee charged with the administration of this chapter.

(6) “Dilution” means the lessening of the capacity of a mark to identify and distinguish goods or services, regardless of the presence or absence of:

(a) Competition between the owner of the mark and other parties.

(b) Likelihood of confusion, mistake, or deception.

(7) “Mark” includes any trademark, service mark, certification mark, or collective mark entitled to registration under this chapter, whether or not registered.

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(8) "Person," and any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of this chapter, means a juristic person as well as a natural person. "Juristic person" includes a firm, partnership, corporation, union, association, or other organization capable of suing and being sued in a court of law.

(9) "Registrant" means the person to whom the registration of a mark under this chapter is issued and the legal representatives, successors, or assigns of such person.

(10) "Related company" means any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used.

(11) "Service mark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor.

(12) "Trade name" means any name used by a person to identify a business or vocation of such person.

(13) "Trademark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown.

(14) "Use" means the bona fide use of a mark in the ordinary course of trade and not used merely for the purpose of reserving a right in a mark. For purposes of this chapter, a mark is deemed to be in use:

(a) On goods when:

1. The mark is placed in any manner on the goods, their containers or the displays associated therewith, or on the tags or labels affixed thereto, or, if the nature of the goods makes such placement impracticable, on documents associated with the goods or their sale; and
2. The goods are sold or transported in this state.

(b) On services when the mark is used or displayed in the sale or advertising of services and the services are rendered in this state.

495.021 Registrability.—

(1) A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) Consists of or comprises immoral, deceptive, or scandalous matter;

(b) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute;

(c) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof;

(d) Consists of or comprises a name, signature, or portrait identifying a particular living individual, except by her or his written consent, or the name, signature, or portrait of a deceased President of the United States during the lifetime of his widow or her widower, if any, except by the written consent of the widow or widower;

(e) Consists of a mark which:

1. When used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them;
2. When used on or in connection with the goods or services of the applicant, is primarily geographically descriptive of them;
3. When used on or in connection with the goods or services of the applicant, is primarily geographically deceptively misdescriptive of them;
4. Is primarily merely a surname; or
5. Comprises any matter that, as a whole, is functional.

Except as expressly excluded in subparagraphs 3. and 5., nothing in this paragraph shall prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The department may accept as prima facie evidence that the mark has become distinctive, as used on or in connection with the applicant's goods or services, proof of substantially exclusive and continuous use thereof as a mark by the applicant in

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this state or elsewhere for the 5 years before the date on which the claim of distinctiveness is made; or

(f) Consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used in this state by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive.

Registration shall not be denied solely on the basis of reservation or registration by another of a corporate name or fictitious name that is the same or similar to the mark for which registration is sought.

(2) Subject to the provisions relating to the registration of trademarks and service marks, so far as they are applicable, collective and certification marks, including indications of regional origin, shall be registrable under this chapter, in the same manner and with the same effect as are trademarks and service marks, by persons, and nations, states, municipalities, and the like, exercising control over the use of the marks sought to be registered, even though not possessing an industrial or commercial establishment, and when registered they shall be entitled to the protection provided in this chapter in the case of trademarks and service marks. The Department of State may establish a separate register for such collective marks and certification marks.

495.031 Application for registration.—

(1) Subject to the limitations set forth in this chapter, any person who uses a trademark or service mark in this state may file with the department, in a manner and form complying with the requirements of the department, an application for registration of that mark setting forth, but not limited to, the following information:

- (a) The name and business address of the person applying for such registration, and, if a business entity, the place of incorporation or organization;
- (b) The goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods or services and the class or classes in which such goods or services fall;
- (c) The date the mark was first used anywhere and the date it was first used in this state by the

applicant, the applicant's predecessor in interest, or a related company of the applicant; and

(d) A statement that the applicant is the owner of the mark, that the mark is in use, and that, to the best of the applicant's knowledge, no other person except a related company has registered such mark in this state, or has the right to use such mark in this state, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion, to cause mistake, or to deceive.

(2) Every applicant for registration of a certification mark in this state shall file with the department, in a manner and form complying with the requirements of the department, an application setting forth, but not limited to, the following information:

- (a) The information required by paragraph (1)(a);
- (b) The date when the certification mark was first used anywhere and the date when it was first used in this state under the authority of the applicant;
- (c) The manner in which and the conditions under which the certification mark is used in this state; and
- (d) A statement that the applicant is exercising control over the use of the mark, that the applicant is not herself or himself engaged in the production or marketing of the goods or services to which the mark is applied, and that no person except the applicant or persons authorized by the applicant, or related companies thereof, has the right to use such mark in this state, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion, to cause mistake, or to deceive.

(3) Every applicant for registration of a collective mark in this state shall file with the department, in a manner and form complying with the requirements of the department, an application setting forth, but not limited to, the following information:

- (a) The information required by paragraphs (1)(a) and (b);
- (b) The date when the collective mark was first used anywhere and the date when it was first used in this state by any member of the applicant or a related company of such member;

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(c) The class of persons entitled to use the mark, indicating their relationship to the applicant, and the nature of the applicant's control over the use of the mark; and

(d) A statement that no person except the applicant or members of the applicant, or related companies thereof, has the right to use such mark in this state, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion, to cause mistake, or to deceive.

(4) The department may also require that a drawing of the mark, complying with the requirements of the department, accompany the application.

(5) Every application under this section shall be signed and verified by the applicant or by a member of the firm or an officer or other authorized representative of the business entity applying.

(6) Every application under this section shall be accompanied by three specimens or facsimiles showing the mark as actually used.

(7) Every application under this section shall be accompanied by a filing fee payable to the department in accordance with s. 495.191.

495.035 Filing of applications.—

(1) Upon the receipt of an application for registration and payment of the application fee, the department may cause the application to be examined for conformity with this chapter.

(2) The applicant shall provide any additional pertinent information requested by the department, including a description of a design mark, and may make, or authorize the department to make, such amendments to the application as may be reasonably requested by the department or deemed by the applicant to be advisable to respond to any rejection or objection.

(3) The department may require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application, if the disclaimed

matter is or has become distinctive of the applicant's or registrant's goods or services.

(4) Amendments may be made by the department upon the application submitted by the applicant upon the applicant's agreement, or a new application may be required to be submitted.

Amendments to an otherwise properly filed application shall not affect the application filing date for purposes of determining the applicant's or registrant's filing priority rights.

(5) If the applicant is found not to be entitled to registration, the department shall advise the applicant of the rejection and of the reasons for rejection. The applicant shall have 3 months in which to reply or amend the application, in which event the application shall be reexamined. This procedure may be repeated until:

(a) The department makes final its refusal to register the mark; or

(b) The applicant fails to reply or amend the application within the specified period, whereupon the application shall be abandoned.

For good cause shown, such as the pendency of litigation involving the mark, the department may extend the period of time in which to respond to the rejection or suspend examination of the application.

(6) If the department makes final its refusal to register the mark, the applicant may seek review of such decision in accordance with ss. 120.569 and 120.57.

(7) In the event of multiple applications concurrently being processed by the department which seek registration of the same or confusingly similar marks for the same or related goods or services, the department shall grant priority to the applications in order of receipt. If a prior-received application is granted a registration, the other application or applications shall then be rejected. The applicant of a rejected application may bring an action for cancellation of the registration upon grounds of prior or superior rights to the mark, in accordance with the provisions of s. 495.101(3).

495.041 Use by related companies.—Where a mark registered or unregistered is or may be used legitimately by related companies, such use shall inure to the benefit of the owner of the mark, and such use shall not affect the validity of such mark or of its registration, provided such mark is not used in

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such manner as to deceive the public. If first use of a mark by a person is controlled by the registrant or applicant for registration of a mark with respect to the nature and quality of the goods or services, such first use shall inure to the benefit of that registrant or applicant, as the case may be.

495.051 Disclaimers.—

(1) The Department of State may require the applicant for registration to disclaim an unregistrable component of a mark otherwise registrable. An applicant may voluntarily disclaim a component of a mark sought to be registered.

(2) No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or her or his right of registration on another application if the disclaimed matter be or shall have become distinctive of her or his goods or services.

495.061 Certificate of registration.—

(1) Upon compliance by the applicant with the requirements of this chapter, the department shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary of State and the seal of the state, and it shall show the name and business address and, if a business entity, the place of incorporation or organization, of the person claiming ownership of the mark in this state, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this state, the class or classes of goods or services and a description of the goods or services on or in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

(2) Any certificate of registration issued by the department under the provisions hereof or a copy thereof duly certified by the department shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any action or judicial proceedings in any court of this state, and shall be prima facie evidence of the validity of the registration, registrant's ownership of the mark, and of registrant's exclusive right to use the mark in this state on or in connection with the goods or services specified in the certificate, subject to any conditions and limitations stated therein.

495.071 Duration and renewal.—

(1) Registration of a mark hereunder shall be effective for a term of 5 years from the date of registration and, upon application filed within 6 months prior to the expiration of such term, in a manner and form complying with the requirements of the department, the registration may be renewed for a like term beginning at the end of the expiring term. Every application under this section shall be accompanied by a filing fee, payable to the department in accordance with s. 495.191.

(2) A registration may be renewed for successive periods of 5 years in like manner.

(3) Any registration in effect on January 1, 2007, shall continue in effect for the unexpired term thereof and may be renewed by filing an application for renewal with the department in a manner and form complying with the requirements of the department and paying the renewal fee therefor within 6 months prior to the expiration of the registration.

(4) All applications for renewal under this chapter, whether of registrations made under this act or of registrations made under any prior acts, shall include a verified statement that the mark is still in use in this state, and shall include a specimen showing actual use of the mark on or in connection with the goods or services subject to the renewal application, or shall state that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

495.081 Assignments; changes of name; security interests.—

(1) A registered mark or a mark for which an application for registration has been filed shall be assignable with the goodwill of the business in which the mark is used or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Assignments shall be by an instrument in writing duly executed and may be recorded with the department upon the payment of the applicable fee. A photocopy of an assignment shall be accepted for recording if it is certified by any of the parties thereto, or their successors, to be a true and correct copy of the original. Upon recording of the assignment, the department shall issue in the name of the assignee a new certificate

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for the remainder of the term of the registration or of the last renewal thereof.

(2) An assignment of any registration under this chapter shall be void against any subsequent purchaser for valuable consideration without notice, unless such assignment is recorded with the department within 3 months after the date of the assignment or prior to the subsequent purchase.

(3) A registrant or applicant for registration effecting a change of the name may record a certificate of change of name of the registrant or applicant with the department upon the payment of the recording fee payable to the department in accordance with s. 495.191. In the case of a pending application for a mark that becomes approved for registration, the department shall issue a certificate of registration in the registrant's new name. In the case of a registered mark, the department shall issue a new certificate of registration in the registrant's new name for the remainder of the term of the registration or last renewal thereof. A person's failure to record a name change in accordance with this subsection shall not affect the person's substantive rights in the mark or its registration.

(4) Acknowledgment shall be prima facie evidence of the execution of an assignment or other instrument and, when recorded by the department, the record shall be prima facie evidence of execution.

(5) Security interests in marks shall be created and perfected in accordance with chapter 679.

495.091 Records.—The department shall keep for public examination a record of all marks registered or renewed under this chapter, including all documents recorded under s. 495.081.

495.101 Cancellation.—The department shall cancel from the register:

(1) Any registration for which the department has received a voluntary request for cancellation by the registrant, which request shall be in a manner and form complying with the requirements of the department.

(2) All registrations granted under this chapter and not renewed in accordance with the provisions hereof.

(3) Any registration for which a court of competent jurisdiction finds that:

- (a) The registered mark has been abandoned.
- (b) The registrant is not the owner of the mark.
- (c) The registration was granted improperly.
- (d) The registration was obtained fraudulently.
- (e) The mark is or has become the generic name for the goods or services, or a portion thereof, for which the mark has been registered.
- (f) The registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; however, should the registrant prove that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including this state, the registration hereunder shall not be canceled.

(g) In the case of a certification mark, that the registrant does not control or is not able to exercise control over the use of such mark; or engages in the production or marketing of any goods or services to which the certification mark is applied; or the registrant permits the use of the certification mark for purposes other than to certify; or the registrant discriminately refuses to certify or continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies. Nothing in this paragraph shall be deemed to prohibit the registrant from using its certification mark in advertising or promoting recognition of the certification program or of the goods or services meeting the certification standards of the registrant.

(4) When a court of competent jurisdiction shall order cancellation of a registration on any ground.

495.111 Classification.—

(1) The following general classes of goods and services, conforming to the classification adopted by the United States Patent and Trademark Office, are established for convenience of administration of this chapter:

(a) Goods:

1. Class 1 Chemicals used in industry, science, and photography; agriculture, horticulture, and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions;

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tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; and adhesives used in industry.

2. Class 2 Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; and metals in foil and powder form for painters, decorators, printers, and artists.

3. Class 3 Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring, and abrasive preparations; soaps; perfumery, essential oils, cosmetics, and hair lotions; and dentifrices.

4. Class 4 Industrial oils and greases; lubricants; dust absorbing, wetting, and binding compositions; fuels (including motor spirit) and illuminants; and candles and wicks for lighting.

5. Class 5 Pharmaceuticals and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use and food for babies; plasters and materials for dressings; material for stopping teeth and dental wax; disinfectants; preparations for destroying vermin; and fungicides and herbicides.

6. Class 6 Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery and small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; and ores.

7. Class 7 Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.

8. Class 8 Hand tools and hand-operated implements; cutlery; side arms; and razors.

9. Class 9 Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), and life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating, or controlling electricity; apparatus for recording, transmission, or reproduction of sound or images; magnetic data carriers and recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating

machines, and data processing equipment and computers; and fire-extinguishing apparatus.

10. Class 10 Surgical, medical, dental, and veterinary apparatus and instruments, artificial limbs, eyes, and teeth; orthopedic articles; and suture materials.

11. Class 11 Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes.

12. Class 12 Vehicles; apparatus for locomotion by land, air, or water.

13. Class 13 Firearms; ammunition and projectiles; explosives; and fireworks.

14. Class 14 Precious metals and their alloys and goods in precious metals or coated therewith (not included in other classes); jewelry and precious stones; and horological and chronometric instruments.

15. Class 15 Musical instruments.

16. Class 16 Paper, cardboard, and goods made from these materials (not included in other classes); printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; and printing blocks.

17. Class 17 Rubber, gutta-percha, gum, asbestos, mica, and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping, and insulating materials; and flexible pipes not of metal.

18. Class 18 Leather and imitations of leather and goods made of these materials and not included in other classes; animal skins and hides; trunks and traveling bags; umbrellas, parasols, and walking sticks; and whips, harness, and saddlery.

19. Class 19 Building materials (nonmetallic); nonmetallic rigid pipes for building; asphalt, pitch, and bitumen; nonmetallic transportable buildings; monuments, not of metal.

20. Class 20 Furniture, mirrors, and picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, and

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meerschaum and substitutes for all these materials, or of plastics.

21. Class 21 Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semiworked glass (except glass used in building); and glassware, porcelain, and earthenware not included in other classes.

22. Class 22 Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks, and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); and raw fibrous textile materials.

23. Class 23 Yarns and threads for textile use.

24. Class 24 Textiles and textile goods not included in other classes and bed and table covers.

25. Class 25 Clothing, footwear, and headgear.

26. Class 26 Lace and embroidery, ribbons, and braid; buttons, hooks and eyes, pins, and needles; and artificial flowers.

27. Class 27 Carpets, rugs, mats and matting, linoleum, and other materials for covering existing floors; and wall hangings (nontextile).

28. Class 28 Games and playthings; gymnastic and sporting articles not included in other classes; and decorations for Christmas trees.

29. Class 29 Meat, fish, poultry, and game; meat extracts; preserved, dried, and cooked fruits and vegetables; jellies, jams, and compotes; eggs, milk, and milk products; and edible oils and fats.

30. Class 30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, and artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, and ices; honey and treacle; yeast, baking powder; salt, and mustard; vinegar and sauces (condiments); spices; and ice.

31. Class 31 Agricultural, horticultural, and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants, and flowers; foodstuffs for animals and malt.

32. Class 32 Beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; and syrups and other preparations for making beverages.

33. Class 33 Alcoholic beverages except beers.

34. Class 34 Tobacco; smokers' articles; and matches.

(b) Services:

1. Class 35 Advertising; business management; business administration; and office functions.

2. Class 36 Insurance; financial affairs; monetary affairs; and real estate affairs.

3. Class 37 Building construction; repair; and installation services.

4. Class 38 Telecommunications.

5. Class 39 Transport; packaging and storage of goods; and travel arrangements.

6. Class 40 Treatment of materials.

7. Class 41 Education; providing of training; entertainment; and sporting and cultural activities.

8. Class 42 Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; and legal services.

9. Class 43 Services for providing food and drink; and temporary accommodation.

10. Class 44 Medical services; veterinary services; hygienic and beauty care for human beings or animals; and agriculture, horticulture, and forestry services.

11. Class 45 Personal and social services rendered by others to meet the needs of individuals; and security services for the protection of property and individuals.

(c) Certification and collective membership marks:

1. Class 200 Collective membership marks.

2. Class A Certification marks for goods.

3. Class B Certification marks for services.

(d) The goods and services recited in collective trademark and collective service mark applications are assigned to the same classes that are appropriate for those goods and services in general.

(2) The establishment of the classes of goods and services set forth in subsection (1) is not for the purpose of limiting or extending the rights of the applicant or registrant. A single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in one or more of the classes listed, but in the event that a single application includes goods or services in connection with which the mark is being used which fall within

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different classes of goods or services, a fee equaling the sum of the fees for registration in each class shall be payable.

495.121 Fraudulent registration.—Any person who shall for herself or himself, or on behalf of any other person, procure the filing or registration of any mark with the Department of State under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, and for punitive or exemplary damages, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

495.131 Infringement.—Subject to the provisions of s. 495.161, any person who shall, without the consent of the registrant:

- (1) Use any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, to cause mistake, or to deceive; or
- (2) Reproduce, counterfeit, copy, or colorably imitate a mark registered under this chapter and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, to cause mistake, or to deceive; shall be liable in a civil action by the owner of such registered mark for any or all of the remedies provided in s. 495.141, except that under subsection (2) hereof the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such mark is intended to be used to cause confusion or mistake or to deceive.

495.141 Remedies.—

- (1) Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display, or sale of any

counterfeits or imitations thereof and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the said court deemed just and reasonable, and may require the defendants to pay to such owner all profits derived from and/or all damages suffered by reason of such wrongful manufacture, use, display, or sale and to pay the costs of the action; and such court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. In assessing profits the plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claimed. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount. If the court shall find that the amount of the recovery based on profits is either inadequate or excessive the court may in its discretion enter judgment for such sum as the court shall find to be just, according to the circumstances of the case. Such sum in either of the above circumstances shall constitute compensation and not a penalty. The court may also award reasonable attorney's fees to the prevailing party according to the circumstances of the case.

- (2) The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.

495.145 Forum for actions regarding registration.—An action seeking cancellation of a registration of a mark registered under this chapter may be brought in any court of competent jurisdiction in this state. Service of process on a nonresident registrant may be made in accordance with s. 48.181. The department shall not be made a party to cancellation proceedings.

495.151 Dilution.—

- (1) The owner of a mark that is famous in this state shall be entitled, subject to the principles of equity and upon such terms as the court deems reasonable, to an injunction and to obtain such other relief against another person's commercial use of a mark or trade name if such use begins after the

REGISTRATION OF TRADEMARKS SERVICE MARKS

mark has become famous and is likely to cause dilution of the distinctive quality of the famous mark, as provided in this section. In determining whether a mark is distinctive and famous, a court may consider factors, including, but not limited to:

- (a) The degree of inherent or acquired distinctiveness of the mark in this state.
 - (b) The duration and extent of use of the mark in connection with the goods and services with which the mark is used.
 - (c) The duration and extent of advertising and publicity of the mark in this state.
 - (d) The geographical extent of the trading area in which the mark is used.
 - (e) The channels of trade for the goods or services with which the mark is used.
 - (f) The degree of recognition of the mark in the trading areas and channels of trade in this state used by the mark's owner and the person against whom the injunction is sought.
 - (g) The nature and extent of use of the same or similar mark by third parties.
 - (h) Whether the mark is the subject of a state registration in this state or a federal registration under the Federal Trademark Act of March 3, 1881, or the Federal Trademark Act of February 20, 1905, or a principal register registration under the Federal Trademark Act of July 5, 1946.
- (2) In an action brought under this section, the owner of a famous mark shall be entitled only to injunctive relief in this state unless the person against whom the injunctive relief is sought willfully intended to trade on the owner's reputation or to cause dilution of the famous mark. If such willful intent is proven, and the mark is registered in this state, the owner shall also be entitled to all remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.
- (3) The following shall not be actionable under this section:
- (a) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.
 - (b) Noncommercial use of the mark.
 - (c) All forms of news reporting and news commentary.

495.161 Common-law rights.—Nothing herein shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

495.171 Effective date; repeal of conflicting acts.—

(1) This chapter, as amended by this act, shall be in force and take effect January 1, 2007, but shall not affect any suit, proceeding, or appeal then pending.

(2) Sections 506.06-506.13 are repealed on January 1, 2007, provided that as to any suit, proceeding, or appeal, and for that purpose only, pending at the time this chapter, as amended by this act, takes effect such repeal shall be deemed not to be effective until final determination of said pending suit, proceeding, or appeal.

495.181 Construction of chapter.—The intent of this chapter is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, as amended. To that end, the construction given the federal act should be examined as persuasive authority for interpreting and construing this chapter.

495.191 Fees.—Filing and other applicable fees payable to the department under this chapter shall be as follows:

- (1) Application filing fee: \$87.50 per class.
- (2) Renewal application fee: \$87.50 per class.
- (3) Assignment filing fee: \$50 per class.
- (4) Certificate of name change filing fee: \$50.
- (5) Voluntary cancellation filing fee: \$50.
- (6) Certificate of registration under seal: \$8.75.
- (7) Certified copy of application file: \$52.50.

TRADEMARK/SERVICE MARK REGISTRATION GUIDELINES

I. GENERAL INFORMATION

Trademarks and Service Marks may be registered with the Florida Department of State pursuant to Chapter 495, Florida Statutes. Registration must be denied if a mark does not meet and comply with all of the requirements and provisions stipulated in Chapter 495, Florida Statutes. Marks are checked against other marks registered with this division and not against corporations, fictitious names or other entities. Rights to a name or mark are perfected by actual use in the ordinary pursuit of the specific endeavor; rights are not perfected by registration only, and the general rule of "FIRST IN USE, FIRST IN RIGHT" is applicable.

Our agency registers trade and service marks on a state level. If you need information concerning the federal registration of trademarks, service marks or patents, please contact the Commissioner of Patents and Trademarks in Washington, D. C. by calling 571-272-1000. If you need information concerning copyrights, contact the Copyright Office in Washington, D. C. by calling 202-707-3000. Although trade names are defined in Chapter 495, Florida Statutes, there is no provision for their registration.

If you wish to register a mark pursuant to Chapter 495, Florida Statutes, please submit one original and one photocopy of the Trade or Service Mark Registration application completed in its entirety, three specimens and a check made payable to the Florida Department of State for the appropriate amount. The application must be typed or neatly handwritten, signed and notarized.

The mark must be in use before it can be registered. If registering a trademark, the good(s) or product(s) must be on sale in the market place. If registering a service mark, you must be rendering the service(s) you are advertising. The mere advertising of future goods or services does not constitute use of a trade or service mark.

II. FEES AND CLASSES

The fee to register a mark is \$87.50 per class. Please refer to section 495.111, Florida Statutes (attached), for a list of classes. A certificate of registration will be issued free of charge. Please make check payable to the Florida Department of State.

Should you need additional information concerning these classes or your classification, please contact the Registration Section by calling (850) 245-6051.

III. SPECIMENS (SAMPLES)

You must submit three specimens (samples) showing how the mark is used. They may be originals or legible facsimiles (copies).

If your mark is a trademark, we will need specimens that are affixed to the good(s) or product(s). Some acceptable trademark specimens are: labels, decals, tags, wrappers, boxes, and containers. If your mark is a service mark, we will need specimens which reflect the type of service(s) being provided. Some acceptable service mark specimens are: business cards, brochures, flyers, and newspaper advertisements.

If your mark is both a trade and service mark, you must submit three appropriate trademark specimens and three appropriate service mark specimens.

Do not submit camera-ready copies, letterhead stationery, envelopes, invoices or matchbooks as specimens. Photographs of bulky specimens are acceptable if the mark to be registered and the good(s) or product(s) are clearly legible. We will not accept any specimens that have been altered or defaced in any way.

IV. APPLICATION

Part I.

#1 - You must list the complete name and business address of the applicant. Please indicate if the applicant is an individual, a corporation, a limited partnership, a general partnership, etc. Enter the domicile state, Florida registration number and Federal Employer Identification number if the applicant is other than an individual.

#2(a) - If a service mark, list the services the mark is used in connection with (i.e., restaurant services, real estate agency, insurance agency, etc.).

#2(b) - If a trademark, list the goods/products the mark is used in connection with (i.e., window cleaner, furniture polish, ladies sportswear, etc.).

#2(c) - List the specific way the mark is applied to the good(s) or used in advertising: If a trademark, tell how the mark is applied to the goods (i.e., label, decal, engraving, imprinting on the goods or products themselves, etc.).

If a service mark, tell how the mark is used in advertising (i.e., brochures, business cards, newspaper advertisements, etc.).

#2(d) - List the applicable class(es). Please refer to section 495.111, F.S., (attached) for a list of these classes.

Part II

#1(a) - Enter the date the mark was first used anywhere.

#1(b) - Enter the date the mark was first used in Florida.

Part III

#1 - Enter the mark to be registered. If the mark includes a design, include a brief written description. If your mark is in another language, please provide this office with an English translation of your mark in this section.

#2 - Disclaimer - Your mark may include a word or design that must be disclaimed. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Commonly used words, including corporate suffixes, must also be disclaimed.

Signature Portion

Complete the signature paragraph accordingly. Please note the applicant's signature must be notarized.

V. TRADEMARK/SERVICE MARK SEARCH

Due to the amount of time it takes to conduct a thorough search of the records, this office does not provide trademark/service mark searches over the telephone. However, you may submit a written request. The request must specify the exact mark to be used and the good(s) or service(s) the mark is to be used in connection with. Please direct all requests to the Trademark Registration Section, Division of Corporations, P. O. Box 6327, Tallahassee, FL 32314.

VI. PROCESSING TIME

The application should be processed within two to five business days from the date of receipt. The processing time may be longer during our peak periods. All applications meeting the requirements of Chapter 495, F. S., on the initial examination will be filed as of the date of receipt. Applications received by courier are not handled on an expedited basis.

VII. COURIER ADDRESS AND MAILING ADDRESS

Mailing Address

Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street/Courier Address

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

Applications received via a courier service are not handled on an expedited basis.

VIII. QUESTIONS

If you have any questions concerning the registration of a mark, please contact the Trademark Registration Section by calling (850)245-6051 between the hours of 8 a.m. and 5:00 p.m. or writing to an address listed above.

495.111 Classification.--

(1) The following general classes of goods and services, conforming to the classification adopted by the United States Patent and Trademark Office, are established for convenience of administration of this chapter:

(a) Goods:

1. Class 1 Chemicals used in industry, science, and photography; agriculture, horticulture, and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; and adhesives used in industry.
2. Class 2 Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; and metals in foil and powder form for painters, decorators, printers, and artists.
3. Class 3 Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring, and abrasive preparations; soaps; perfumery, essential oils, cosmetics, and hair lotions; and dentifrices.
4. Class 4 Industrial oils and greases; lubricants; dust absorbing, wetting, and binding compositions; fuels (including motor spirit) and illuminants; and candles and wicks for lighting.

5. Class 5 Pharmaceuticals and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use and food for babies; plasters and materials for dressings; material for stopping teeth and dental wax; disinfectants; preparations for destroying vermin; and fungicides and herbicides.
6. Class 6 Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery and small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; and ores.
7. Class 7 Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.
8. Class 8 Hand tools and hand-operated implements; cutlery; side arms; and razors.
9. Class 9 Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), and life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating, or controlling electricity; apparatus for recording, transmission, or reproduction of sound or images; magnetic data carriers and recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, and data processing equipment and computers; and fire-extinguishing apparatus.
10. Class 10 Surgical, medical, dental, and veterinary apparatus and instruments, artificial limbs, eyes, and teeth; orthopedic articles; and suture materials.
11. Class 11 Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes.
12. Class 12 Vehicles; apparatus for locomotion by land, air, or water.
13. Class 13 Firearms; ammunition and projectiles; explosives; and fireworks.
14. Class 14 Precious metals and their alloys and goods in precious metals or coated therewith (not included in other classes); jewelry and precious stones; and horological and chronometric instruments.
15. Class 15 Musical instruments.
16. Class 16 Paper, cardboard, and goods made from these materials (not included in other classes); printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; and printing blocks.
17. Class 17 Rubber, gutta-percha, gum, asbestos, mica, and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping, and insulating materials; and flexible pipes not of metal.
18. Class 18 Leather and imitations of leather and goods made of these materials and not included in other classes; animal skins and hides; trunks and traveling bags; umbrellas, parasols, and walking sticks; and whips, harness, and saddlery.
19. Class 19 Building materials (nonmetallic); nonmetallic rigid pipes for building; asphalt, pitch, and bitumen; nonmetallic transportable buildings; monuments, not of metal.

20. Class 20 Furniture, mirrors, and picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, and meerschaum and substitutes for all these materials, or of plastics.
21. Class 21 Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semiworked glass (except glass used in building); and glassware, porcelain, and earthenware not included in other classes.
22. Class 22 Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks, and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); and raw fibrous textile materials.
23. Class 23 Yarns and threads for textile use.
24. Class 24 Textiles and textile goods not included in other classes and bed and table covers.
25. Class 25 Clothing, footwear, and headgear.
26. Class 26 Lace and embroidery, ribbons, and braid; buttons, hooks and eyes, pins, and needles; and artificial flowers.
27. Class 27 Carpets, rugs, mats and matting, linoleum, and other materials for covering existing floors; and wall hangings (nontextile).
28. Class 28 Games and playthings; gymnastic and sporting articles not included in other classes; and decorations for Christmas trees.
29. Class 29 Meat, fish, poultry, and game; meat extracts; preserved, dried, and cooked fruits and vegetables; jellies, jams, and compotes; eggs, milk, and milk products; and edible oils and fats.
30. Class 30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, and artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, and ices; honey and treacle; yeast, baking powder; salt, and mustard; vinegar and sauces (condiments); spices; and ice.
31. Class 31 Agricultural, horticultural, and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants, and flowers; foodstuffs for animals and malt.
32. Class 32 Beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; and syrups and other preparations for making beverages.
33. Class 33 Alcoholic beverages except beers.
34. Class 34 Tobacco; smokers' articles; and matches.

(b) Services:

1. Class 35 Advertising; business management; business administration; and office functions.
2. Class 36 Insurance; financial affairs; monetary affairs; and real estate affairs.
3. Class 37 Building construction; repair; and installation services.
4. Class 38 Telecommunications.

5. Class 39 Transport; packaging and storage of goods; and travel arrangements.
6. Class 40 Treatment of materials.
7. Class 41 Education; providing of training; entertainment; and sporting and cultural activities.
8. Class 42 Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; and legal services.
9. Class 43 Services for providing food and drink; and temporary accommodation.
10. Class 44 Medical services; veterinary services; hygienic and beauty care for human beings or animals; and agriculture, horticulture, and forestry services.
11. Class 45 Personal and social services rendered by others to meet the needs of individuals; and security services for the protection of property and individuals.

(c) Certification and collective membership marks:

1. Class 200 Collective membership marks.
2. Class A Certification marks for goods.
3. Class B Certification marks for services.

(d) The goods and services recited in collective trademark and collective service mark applications are assigned to the same classes that are appropriate for those goods and services in general.

(2) The establishment of the classes of goods and services set forth in subsection (1) is not for the purpose of limiting or extending the rights of the applicant or registrant. A single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in one or more of the classes listed, but in the event that a single application includes goods or services in connection with which the mark is being used which fall within different classes of goods or services, a fee equaling the sum of the fees for registration in each class shall be payable.

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: _____
(Mark to be registered)

The enclosed Trademark/Service Mark Application, specimens and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

(Name of Person)

(Firm/Company)

(Address)

(City/State and Zip Code)

For further information concerning this matter, please call:

_____ at (_____) _____
(Name of Person) (Area Code & Daytime Telephone Number)

MAILING ADDRESS:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

STREET/COURIER ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

(NOTE: The information contained in this cover letter will be included in the permanent record and will be available to the general public.)

APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK

PURSUANT TO CHAPTER 495, FLORIDA STATUTES

**TO: Division of Corporations
Post Office Box 6327
Tallahassee, FL 32314**

PART I

1. OWNER/APPLICANT: Enter the name and address of the individual or the business entity to be listed as the owner of the Trademark and/or Service Mark on the records of the Florida Department of State.

(a) Owner's/Applicant's name: _____

(b) Owner's/Applicant's business address: _____

City/State/Zip

If different, Owner's/Applicant's mailing address: _____

City/State/Zip

(c) Owner's/Applicant's telephone number: (_____) _____

Check the appropriate box to indicate the Owner/Applicant is a(n):

- Individual Corporation Joint Venture Limited Liability Company
- General Partnership Limited Partnership Union Other: _____

If the Owner/Applicant is a business entity, the business entity must have an active filing or registration on file with the Florida Department of State. If the Owner/Applicant is not an individual, enter the business entity's Florida registration/document number in #1, the state or country under the laws of which the business entity is currently formed, organized or incorporated under in #2, and the entity's federal employer identification number (EIN) in #3.

(1) Florida registration/document number: _____

(2) Domicile State or Country: _____

(3) Federal Employer Identification Number: _____

2. (a) **SERVICE MARK:** If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with a type of service, the mark is a service mark. If the mark is a service mark, the applicant/owner must list the specific service(s) the mark is being used in connection with. For example: furniture moving services, diaper services, house painting services, wholesale and retail sales of tractor equipment, etc. If the owner/applicant is using the mark to identify services available in the market place, enter the specific service(s) being rendered here:

(Note: List only those services currently being rendered by the owner/applicant. Do not include future services.)

2. (b) TRADEMARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with an actual product manufactured by the owner/applicant or on the owner/applicant's behalf, the mark is a trademark. If the mark is a trademark, the applicant/owner must list the specific product(s) the name, logo, design and/or slogan is being used to identify. For example: ladies sportswear, cat food, barbecue grills, shoe laces, etc. If the owner/applicant is using the name, logo, design and/or slogan to identify goods available in the market place, enter the specific product(s) the name, logo, design and/or slogan is being used to identify:

(Note: List only those product(s) currently available. Do not include future products.)

2. (c) HOW IS THE NAME, LOGO, DESIGN AND/OR SLOGAN CURRENTLY USED:

SERVICE MARKS: If the name, logo, design and/or slogan are/is being used in connection with a type of service, you must specify the form(s)/mean(s) of advertisement the applicant/owner is using to advertise the services to the general public. For example: newspaper advertisements, business cards, brochures, flyers, pamphlets, menus, etc. If the mark is being used in connection with a type of service, state how the name, logo, design and/or slogan are/is being used in advertising here:

TRADEMARKS: If the name, logo, design and/or slogan are/is being used to identify a product manufactured by or fore the applicant/owner, you must specify how the mark is applied or affixed to the actual product or its packaging. For example: a tag, label, imprinted or engraved on the actual product, etc. If the mark is being used in connection with a specific product, state how the name, logo, design and/or slogan is applied or affixed to the actual product(s) or the packaging:

2. (d) FEE(S) AND CLASS(ES): There are a total of 45 classes or categories in which all products or services must be categorized. The fee to register a mark is \$87.50 per class. Make check payable to Florida Department of State.

List the class(es) which apply to the product(s) and/or service(s) listed in 2(a) and/or 2(b) above:

PART II

1. You must state the date the name, logo, design and/or slogan was first used in the state of Florida, and, if it was used in another state or country, the date you first used the name, logo, design and/or slogan in the other state or country. Enter the month, day, and year the name, logo, design and/or slogan was first used by the applicant/owner, the predecessor, or a related company in Florida. If the name, logo, design and/or slogan has been used in another state or country, then you must also enter the month, day, and year the name, logo, design and/or slogan was/were used in another state or country, when applicable.

Note: The Florida Statutes require a mark to be in use prior to registration.

(a) Date first used in other state or country, if applicable: _____

(b) Date first used in Florida: _____

PART III

ENTER NAME, LOGO, DESIGN AND/OR SLOGAN BEING REGISTERED:

1. Enter the name, a brief description of the logo or design, and/or the slogan you are registering. The description of the logo and/or design must be 25 words or less. List the exact name, slogan, and/or description of the logo/design here: (NOTE: The name, logo, design and/or slogan listed in this section must match the exact name, logo, design and/or slogan listed on your specimens or examples.)

Provide the English translation of any and all terms listed #1 above, when applicable: _____

2. **DISCLAIMER STATEMENT** (if applicable):

Your mark may include a word or design that is commonly used by others. Commonly used terms or designs must be disclaimed. When you disclaim a specific term or design, you are acknowledging this term is commonly used by others and that you do not claim the exclusive right to use the disclaimed term or design. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Corporate suffixes and terms readily associated with the specific product(s) and/or(s) service being provided must also be disclaimed.

Enter all terms listed in #1 above which require a disclaimer in the space provided below:

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM(S)" _____
" APART FROM THE MARK AS SHOWN.

3. ATTACH OR INCLUDE THREE SPECIMENS OR EXAMPLES OF THE TRADEMARK OR SERVICE MARK BEING REGISTERED

Chapter 495, F.S., requires you to submit three specimens (samples or examples) of the mark in use. You must submit three specimens FOR EACH CLASS listed in Part I #2(d). The name, logo, design and/or slogan on the specimens must be identical to the name, logo, design and/or slogan being registered. You may provide three identical specimens or three different specimens. For each service mark class (classes 35-45), you may provide three newspaper advertisements, business cards, brochures, flyers, or any combination thereof. For each trademark class (classes 1-34), you may provide three tags, labels, boxes, etc. or any combination thereof. Photographs of bulky specimens are acceptable if the mark being registered and the good(s) or product(s) are clearly legible.

SIGNATURE OF APPLICANT/OWNER AND NOTARIZATION:

I, _____, being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and to the best of my knowledge no other person except a related company has registered this mark in this state or has the right to use such mark in Florida either in the identical form thereof or in such near resemblance as to be likely, when applied to the goods or services of such other person to cause confusion, to cause mistake or to deceive. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct.

Typed or printed name of applicant

Applicant's signature
(List name and title)

STATE OF _____

COUNTY OF _____

On this _____ day of _____, _____, _____ personally appeared before me,

who is personally known to me whose identity I proved on the basis of _____

(Seal)

Notary Public Signature

Notary's Printed Name

My Commission Expires: _____

FILING FEE: \$87.50 per class

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: _____
(Name of Mark Registered)

Dear Sir or Madam:

The enclosed Mark Renewal Application, specimen and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

(Name of Person)

(Firm/Company)

(Address)

(City/State and Zip Code)

For further information concerning this matter, please call:

_____ at (_____) _____
(Name of Person) (Area Code & Daytime Telephone Number)

STREET/COURIER ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

MAILING ADDRESS:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

FILING FEE: \$87.50 per class
CERTIFICATE OF RENEWAL: \$ 8.75 (OPTIONAL)

(NOTE: The information contained in this cover letter will be included in the permanent record and will be available to the general public.)

MARK RENEWAL APPLICATION

Name and Mailing Address of Owner:

Return To: Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

[Empty box for Name and Mailing Address of Owner]

1) Mark Registered: _____

2) Registration Number: _____

3) Date Filed: _____ 4.) Renewal Date: _____ 5.) Class(es) Filed: _____

6) Renewal statement pursuant to section 495.071, Florida Statutes. Below you must state the mark is still in use in Florida or state the reason for its nonuse is not due to any intention to abandon the mark.

7) If the mark is still in use, a specimen showing actual use of the mark is included with this application.

8) If applicant is a business entity, enter the state of incorporation/formation/organization: _____

Typed or Printed Name of Owner

Owner's Signature or Authorized Person's Signature

STATE OF _____

COUNTY OF _____

On this _____ day of _____, _____,
personally appeared before me,

who is personally known to me whose identity I proved on the basis of _____

(Seal)

Notary Public's Signature

Fee: \$87.50 Per Class
Certificate of Renewal : \$8.75 (Optional)

Notary Public's Printed Name

Mark Renewal Instructions

- You may file a renewal up to 6 months prior to the expiration date of the mark.
- If you do not wish to renew your mark, you may let the mark expire or you may file a cancellation prior to its date of expiration. The filing fee for a cancellation is \$50.00. (Cancellation forms may be downloaded from our website at www.sunbiz.org.)
- If the owner of the mark is a business entity, the business entity's filing/registration must be active on our records. If the owner of the mark has changed you must file an assignment. The fee to file an assignment is \$50. If only the name of the owner has changed, the owner must file a Trademark/ Service Mark Certificate of Name Change. The fee to file a Certificate of Name Change is \$50. Forms may be downloaded from our website at www.sunbiz.org.
- The fee to file a renewal is \$87.50 **PER CLASS**. NOTE: A certificate of renewal may be obtained for an additional \$8.75. Make check(s) payable to Florida Department of State.
- Complete Renewal as follows
 - #1. If blank, enter name or description of the mark.
 - #2. If blank, enter Florida registration number.
 - #3. If blank, enter date mark was registered with the Florida Department of State.
 - #4. If blank, enter date registration is due to expire.
 - #5. If blank, enter class (es) under which mark was registered.
 - #6. You must state the mark is still in use in Florida or that the reason for its nonuse is not due to any intention to abandon the mark.
 - #7. If the mark is still in use, you must submit one specimen showing actual use of the mark with this application.
 - #8. If the owner is a business entity, enter the state under the laws of which it is incorporated, formed or otherwise organized.

Should you have any questions regarding the filing of your renewal, please contact the Registration Section, Division of Corporations, at (850) 245-6051.

Mailing Address: Division of Corporations P.O. Box 6327 Tallahassee, FL 32314
Street/Courier Address: Division of Corporations Clifton Building,
2661 Executive Center Circle Tallahassee, FL 32301



FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

Attached are the form and instructions to assign a trademark and/or service mark registration.

- The fee to file the assignment is \$50 per class. Please make the check payable to the Florida Department of State. Please be advised that a certificate reflecting the name and address of the new owner is free of charge and will automatically be returned with your letter of acknowledgment.
- The assignment must be signed by the assignor (the old owner) and the assignee (the new owner). Both signatures must be notarized.

Any further inquiries concerning this matter should be directed to the Registration Section by calling (850) 245-6051.

STREET/COURIER ADDRESS:

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

MAILING ADDRESS:

Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: _____
(Name of Mark to be assigned)

Dear Sir or Madam:

The enclosed Mark Assignment and fee(s) are submitted for filing. Please
return all correspondence concerning this matter to the following:

(Name of Person)

(Firm/Company)

(Address)

(City/State and Zip Code)

For further information concerning this matter, please call:

_____ at (_____) _____
(Name of Person) (Area Code & Daytime Telephone Number)

STREET/COURIER ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

MAILING ADDRESS:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

FILING FEE: \$50 per class

ASSIGNMENT OF MARK REGISTRATION

1. The mark to be assigned is: _____

2. Registration Number: _____

3. (a) Assignor's name: _____

(b) Assignor's Business Address: _____

City/State/Zip

If Different, Assignor's Mailing Address: _____

City/State/Zip

4. (a) Assignee's name: _____

(b) Assignee's Business Address: _____

City/State/Zip

If Different, Assignee's Mailing Address: _____

City/State/Zip

(c) Assignee's telephone number: (_____) _____

Individual Corporation Joint Venture Limited Liability Company

General Partnership Limited Partnership Union Other: _____

If other than an individual,

(1) Florida registration/ document number: _____ (2) Domicile State: _____

(3) Federal Employer Identification Number: _____

5. All right, title and interest in and to said mark, together with the good will of the business in which the mark is used (or that part of the good will of the business connected with the use of and symbolized by the mark) is hereby

assigned by _____ to _____.
(the Assignor) (the Assignee)

6. Assignor's Signature: _____

By _____
(Typed or Printed Name of Person Signing Above)

Sworn to and subscribed before me on this _____ day of _____, _____, _____
(Name of Individual Signing)

who is personally known to me whose identity I proved on the basis of _____

(Notary Seal)

Signature of Notary Public

7. Assignee's Signature: _____

By _____
(Typed or Printed Name of Person Signing Above)

Sworn to and subscribed before me on this _____ day of _____, _____, _____
(Name of Individual Signing)

who is personally known to me whose identity I proved on the basis of _____

(Notary Seal)

Signature of Notary Public

FILING FEE: \$50 per class
Division of Corporations P. O. Box 6327 Tallahassee, FL 32314

COVER LETTER

**TO: Registration Section
Division of Corporations**

SUBJECT: _____
(Name of Mark to be cancelled)

The enclosed Application for the Cancellation of a Trademark and/or Service Mark and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to:

(Contact Person)

(Firm/Company)

(Address)

(City, State and Zip Code)

For further information concerning this matter, please call:

_____ at (_____) _____
(Name of Contact Person) (Area Code and Daytime Telephone Number)

Enclosed is a check for the following amount:

\$50.00 Filing Fee

\$102.50 Filing Fee and Certified Copy

STREET ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

MAILING ADDRESS:
Registration Section
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

CR2E077 (1/11)

**APPLICATION FOR THE CANCELLATION OF A
TRADEMARK AND/OR SERVICE MARK**

Pursuant to s. 495.101, Florida Statutes, the undersigned hereby submit(s) this application to cancel the following trademark and/or service mark registration:

1. Mark to be cancelled: _____

2. Registration Number: _____

3. Date of Registration: _____

4. Signature of Owner(s):

Owner's Signature

Co-Owner's Signature, if any

Typed or Printed Name of Person Signing Above

Typed or Printed Name of Person Signing Above

Typed or Printed Name of Owner

Typed or Printed Name of Co-Owner

STATE OF _____

COUNTY OF _____

Sworn to and subscribed by me on n this ____ day of _____, 20____, _____,
(Name of Individual Signing)

personally appeared before me, who is/are personally known to me or whose
identity (ies) I proved on the basis of _____.

Notary Public's Signature

(Seal)

Notary Public's Printed Name

My Commission Expires: _____

(Attach additional sheet if necessary)

Filing Fee: \$50.00
Certified Copy (optional): \$52.50

COVER LETTER

**TO: Registration Section
Division of Corporations**

SUBJECT: _____
(Name of Mark)

The enclosed Certificate of Change of Name of the Registrant or Applicant of a Florida Trademark and/or Service Mark Registration and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to:

(Contact Person)

(Firm/Company)

(Address)

(City, State and Zip Code)

For further information concerning this matter, please call:

_____ at (_____) _____
(Name of Contact Person) (Area Code and Daytime Telephone Number)

Enclosed is a check for the following amount:

- | | | | |
|--------------------------|--|--------------------------|---|
| <input type="checkbox"/> | \$50 Filing Fee and Certificate of Registration (Free of Charge) | <input type="checkbox"/> | \$102.50 Filing Fee, Certified Copy, and Certificate of Registration (Free of Charge) |
|--------------------------|--|--------------------------|---|

STREET ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

MAILING ADDRESS:
Registration Section
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

**CERTIFICATE OF CHANGE OF NAME
OF THE REGISTRANT OR APPLICANT OF A
FLORIDA TRADEMARK AND/OR SERVICE MARK REGISTRATION**

Pursuant to s. 495.081(3), Florida Statutes, the undersigned hereby submits this certificate to change the name of the registrant or applicant of the following Florida trademark and/or service mark registration:

1. Name of Mark: _____

2. Registration Number: _____

3. Date of Registration: _____

4. a. Name of owner as it appears on the trademark/service mark registration:

b. Address of owner as it appears on the trademark/service mark registration:

5. a. New name of owner:

b. New mailing address, if applicable:

SIGNATURE:

Owner's Signature: _____

Typed/Printed Name of Person Signing: _____

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 20 _____.

(Enter Name of Person Signing Above)

Personally appeared before me, who is personally known to me or whose identity I
proved on the basis of _____.

(Seal)

Notary Public's Signature

Notary Public's Printed Name

My Commission Expires: _____

(Attach additional sheet if necessary)

Filing fee:	\$50.00
Certificate of Registration:	Issued Free of Charge
Certified Copy (optional):	\$52.50

**FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS**

www.sunbiz.org

DIRECTOR'S OFFICE	(850) 245-6000
BUREAU OF COMMERCIAL INFORMATION SERVICES	(850) 245-6862
Certification Section <i>Function: Certified copies of all division records, certificates of status and service of process pursuant to Chapter 48, Florida Statutes.</i>	(850) 245-6053
Public Access Area <i>Function: Walk-in filings</i>	(850) 245-6963
Electronic Filing and Internet Support <i>Function: Information on electronic filing and on-line access systems maintained by the Division of Corporations.</i>	(850) 245-6939
Apostille Section <i>Function: Certification of Notaries and public documents.</i>	(850) 245-6945
BUREAU OF COMMERCIAL RECORDINGS	(850) 245-6900
New Filing Section <i>Function: All new domestic and foreign profit and non-profit corporations.</i>	(850) 245-6052
Amendment Section <i>Function: All amendments and mergers to domestic and foreign corporations; corporate dissolutions and withdrawals; resignation of officers, directors and registered agents; corporate registered agent changes.</i>	(850) 245-6050
Partnership/Trademark/Limited Liability Company Registration Section <i>Function: All limited partnership, limited liability company, trademark/service mark, partnership, and registered limited liability partnership filings; limited partnership and limited liability company annual reports and reinstatements.</i>	(850) 245-6051
Annual Report Section <i>Function: Corporation annual reports</i>	(850) 245-6056
Reinstatement Section <i>Function: Corporation reinstatements</i>	(850) 245-6059
Fictitious Name Section <i>Function: Fictitious name applications, re-registrations and cancellations</i>	(850) 245-6058
Judgment Lien Section <i>Function: New and amended Judgment lien registrations and tax lien registrations</i>	(850) 245-6011
Cable and/or Video Franchise Section <i>Function: New/Amended/Cancellation of Cable/ Video Franchise</i>	(850) 245-6010
Notary Section <i>Function: Registration of new/cancelled Notaries</i>	(850) 245-6975

Florida Department of State

Division of Corporations

850-245-6051

www.sunbiz.org