

# The World's Largest Kit-Cat Clock Use Agreement

**Whereas,** \_\_\_\_\_ (Dealer Store Name) desires to have the use of The World's Largest Kit-Cat Clock (CLOCK) owned by the California Clock Company (CCC) during the term of this agreement;

**Whereas,** the Dealer wishes to prominently use the CLOCK at Dealer's retail location to promote Dealer's store and the sales of Kit-Cat Clocks for a period of 3 months.

**Whereas,** Dealer and CCC intend that ownership of the CLOCK shall remain fully CCC's and that the CLOCK will be returned to CCC in good condition by the Dealer, at Dealer's expense before the end of the term;

## Dealer Shipping Address and instructions for the Big KC

<b>Store name and Shipping Address:</b>	
<b>Desired Arrival Date Range:</b>	
<b>Days and Hours available for Delivery:</b>	
<b>Phone Number for Delivery:</b>	
<b>Email Address for shipping documents:</b>	
<b>Special Delivery Instructions:</b>	

Return Address (or as specified by CCC):  
 California Clock Company  
 Attn: Dennis McLain  
 3508 North Creighton Court,  
 Scottsdale, AZ 85251

### Dealer Agreement:

**Company Name:** \_\_\_\_\_  
**Signature:** \_\_\_\_\_  
**Printed Name:** \_\_\_\_\_  
**Title** \_\_\_\_\_ **Signature Date** \_\_\_\_\_



## The parties agree as follows:

### 1. DEFINITIONS

In this Agreement the following expressions have the meaning set opposite:

**the CLOCK:** the CLOCK listed in Part A of the Schedule;

**the Term:** **3 months** after arrival of the Big KC. Either party may terminate the agreement sooner with written notice. If desired by the Dealer, CCC may allow the clock to remain longer at CCC's discretion. The term of the agreement lasts until the Big KC is returned to CCC.

### 2. TERMS AND CONDITIONS OF LOAN

- 2.1 CCC will lend the CLOCK to the Dealer on the terms and conditions of this Agreement.
- 2.2 The Dealer will use the CLOCK only for promotional purposes at Dealers Store or other approved locations. Dealer must first obtain CCC's written consent for any use outside what is described here.
- 2.3 Risk of any loss or damage to the CLOCK, or liability arising from the possession of the CLOCK will become the responsibility of the Dealer on delivery to the Dealer and will remain with the Dealer until the CLOCK has been returned to CCC under clause 5.4. The Dealer will insure the CLOCK for its full re-instatement value.
- 2.4 The Dealer will keep the CLOCK in good condition and repair (fair wear and tear excepted) throughout the Term, and will be liable for the costs and expenses of maintaining and repairing the CLOCK if necessary.
- 2.5 The Dealer will not modify the CLOCK without first obtaining CCC's written approval.
- 2.6 The Term may be extended only by the written consent of CCC and the Dealer.
- 2.7 No license under any Intellectual Property owned or controlled by CCC is granted or implied by this Agreement other than the right for the Dealer to have possession of, and use, the CLOCK in accordance with the terms of this Agreement.
- 2.8 Dealer agrees that they have, and will maintain, commercial liability insurance that will cover and assume liability for the CLOCK during the entire duration of the term.

### 3. PAYMENT

The CLOCK is loaned to the Dealer free of charge pending the acceptance of the terms of this agreement.



CCC will provide the **Dealer a 10% off discount on all wholesale priced** CCC orders while in possession of the CLOCK during the term of this agreement. The temporary discount does **not** apply to seasonal discounts offered to all of CCC's resellers. CCC may also offer additional exclusive specials in writing to Dealer at CCC's own discretion.

The Dealer is responsible for the cost of the CLOCK's shipment to and from the Dealers location. In the event of loss or damage to the CLOCK, Dealer or Dealer's insurance, will be liable for CCC's cost to replace or repair the CLOCK. CCC will arrange shipment for Dealer in order to obtain the best possible rates and will invoice Dealer for the cost of shipment.

#### 4. CONSEQUENTIAL DAMAGES WAIVER; LIMITATION OF LIABILITY

4.1 The liability of either party to the other for any breach of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement and the CLOCK, will not extend to any indirect damages or losses, and will not exceed the value of the CLOCK.

#### 5. TERMINATION

5.1 The Dealer may terminate this Agreement with immediate effect and for any reason by giving written notice to CCC.

5.2 Either party may terminate this Agreement with immediate effect by giving notice to the other party if:

5.2.1 the other party is in breach of any provision of this Agreement and (if it is capable of remedy) the breach has not been remedied within 30 days after receipt of written notice specifying the breach and requiring its remedy; or

5.2.2 the other party becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other party's assets, or if the other party makes any arrangement with its creditors.

5.3 Unless terminated under clause 5.1 or 5.2 of this Agreement, the Dealer's right to use the CLOCK, will automatically come to an end on the expiry of the Term.

5.4 Within [5] business days after the early termination of this agreement for any reason or [5] business days **before** the expiry of Term, the Dealer will have the duty, at its expense, to return the CLOCK in good working order to CCC at the address CCC notifies to the Dealer for that purpose.

#### 6. GENERAL

6.1 **Notices:** Any notice to be given under this Agreement must be in writing, via email, fax or certified mail.



- 6.2 **Assignment:** Neither party may assign or transfer this Agreement as a whole, or any of its rights or obligations under it, without first obtaining the written consent of the other party. That consent may not be unreasonably withheld or delayed.
- 6.3 **No agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the parties, or the relationship between them of principal and agent. Neither party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.
- 6.4 **ARBITRATION:** All claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in the State of California or another location mutually agreeable to the parties. An award of arbitration may be confirmed in a court of competent jurisdiction. Venue and jurisdiction for the enforcement of this Agreement shall be in the courts of competent jurisdiction in Orange County, California or at another location mutually agreed to in writing.

## THE SCHEDULE

### The Word's Largest Kit-Cat Clock

**MODEL: BEC-002 GRAN DADDY KIT-CAT CLOCK.**

**Description:** The CLOCK is the World's Largest fully functional Kit-Cat Clock design with fully functioning animation and timepiece.

**Assembly instructions:** Dealer will follow the easy assembly instructions provided by CCC and connect the CLOCK with a regular 110 extension cord for power.

**Maintenance instructions:** Dealer will follow simply maintenance instructions provided by CCC.

**Troubleshooting:** Dealer should contact the designer Dennis McLain at [dennisdeanmclain@gmail.com](mailto:dennisdeanmclain@gmail.com) or (602) 478-5519 with any maintenance, upkeep or operation questions.

**Value:** \$4,700

**Shipping Details:** CCC will obtain the best possible rates for the Dealer and arrange shipping under CCC's FedEx account. Ship costs are typically well under \$250 for each trip but are out of CCC's control. CCC will invoice Dealer for the cost of shipment to and from the Dealer's location. CCC will ship the CLOCK within 7 business days of the execution of this agreement (start of the Term) and will arrange pickup within 5 business days before of the end of the Term or as mutually agreed. Any shipping estimates that CCC provides Dealer are non-binding and subject to change with the market fluctuations. CCC will strive to find the best rates for the CLOCK shipments both to and from Dealer's location.

**Shipping Dimensions:** 45x25x27

**Weight:** 110 pounds

**Container:** The CLOCK is packaged in a custom wooden box with a steel frame. No pallet is needed. Please make sure the container is kept in a safe location for the return shipment. The Container should be used whenever the CLOCK is transported between approved locations.

