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## LICENCE AGREEMENT

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DATED: \_\_\_\_\_ 20 \_\_\_\_ .

BETWEEN

Company Pty Ltd of 1 Smith Street Pietersberg 7000 (**the Licensor**)

AND

Other Company Pty Ltd of 12 Lambert Road Besterne 2000 (**the Licensee**).

# LICENCE AGREEMENT

This Agreement made on \_\_\_\_\_ 20 \_\_\_\_ .

**BETWEEN** Company Pty Ltd of 1 Smith Street Pietersberg 7000 **(the Licensor)**

**AND** Other Company Pty Ltd of 12 Lambert Road Besterne 2000  
**(the Licensee).**

## RECITALS

- A. The Licensor is the owner of the product **(the Product)** described in Part A of the Schedule.
- B. The Licensor has agreed to grant the Licensee the right to use the Product strictly on the terms contained in this Agreement and the Licensee has agreed to act as a Licensee of the Product on the terms in this Agreement.

## THE PARTIES AGREE AS FOLLOWS:

### 1 Grant of Licence

- 1.1 The Licensor hereby grants to the Licensee the exclusive licence to use the Product for the purpose **(the Purpose)** set out in Part B of the Schedule during the term **(the Term)** set out in Part C of the Schedule in the territory **(the Territory)** described in Part D of the Schedule.
- 1.2 The Licensee promises to the Licensor as an essential term of this Agreement that the Licensee will only use the Product for the Purpose in the Territory during the Term.
- 1.3 The Licensee may if it is not in default under this Agreement extend the Term as provided in Part C of the Schedule.

### 2 Licence Fee

- 2.1 It is an essential term of this Agreement that the Licensee pays to the Licensor the licence fee (the Licence Fee) as set out in Part E of the Schedule and at the times and in the manner set out in Part E of the Schedule.
- 2.2 The Licensee promises to the Licensor to pay to the Licensor the Licence Fee as set out in Part E of the Schedule at the times and in the manner set out therein.

### 3 Acknowledgement by the Licensee

- 3.1 The Licensee acknowledges and undertakes to the Licensor that:
  - (a) the Licensee will not dispute or challenge the Licensor's exclusive ownership of the Product and all intellectual property therein;

- (b) nothing herein confers on the Licensee any interest in the Product or right to use the Product except to the extent permitted in this licence;
  - (c) all enhancements, new uses and adaptations of the Product discovered by the Licensee are owned exclusively by the Licensor and the Licensee must sign all documents, assignments or transfers of intellectual property as the Licensor may reasonably require to ensure that the Licensor is the exclusive owner thereof.
- 3.2 The Licensee promises not by act or omission to bring the Licensor or the Product into disrepute and not to do anything that might harm the interest and reputation of the Licensor.
- 3.3 The Licensee must not during the Term use any product that is competitive with the Product.
- 3.4 The Licensee must promptly record all complaints it receives from any person with respect to the Product and must promptly notify and provide full details to the Licensor.
- 3.5 The Licensee acknowledges that the Licensee has carried out research and due diligence into the suitability and fitness of the Product for the Purpose and has not relied on any representation or statement by the Licensor in respect thereof. To the extent to which the Licensee might have any claim against the Licensor which asserts that the Product was not suitable or fit for the Purpose the Licensee hereby expressly waives, abandons and releases the Licensor from those claims and indemnifies the Licensor against any liability to any third parties where such liability relates to any such assertions. The Licensee further acknowledges that this is an essential term of this Agreement.

#### **4 Relationship**

- 4.1 The Licensor and the Licensee are not in partnership nor is there a joint venture between them. The Licensee is not an employee of the Licensor and nor is any person controlling the Licensee an employee of the Licensor. The Licensee is not a franchisee of the Licensor and is not an agent of the Licensor.
- 4.2 The Licensee must not represent to any person that the relationship between the Licensor and the Licensee is anything other than that of the Licensor and the Licensee.
- 4.3 The Licensee must not represent to any person that the Licensee has any rights to use the Products other than for the Purpose in the Territory during the Term.

## **5 Breaches and Termination**

- 5.1 If the Licensee fails to pay any sum including the Licence Fee when due to the Licensor or breaches any of the provisions of this Agreement and fails to remedy the breach within 14 days of being requested by the Licensor so to do, the Licensor may at the Licensor's absolute discretion terminate this Agreement by giving written notice to the Licensee to that effect.
- 5.2 Upon termination through breach or expiry of the Term the Licensee must immediately:
- (a) cease to use the Product; and
  - (b) return all of the Licensor's property in the Licensee's possession.
- 5.3 The Licensor may in the event of breach as an additional remedy to termination claim damages from the Licensee for any loss or damage which the Licensor might thereby suffer.

## **6 Confidentiality**

- 6.1 The Licensee must keep confidential and must not disclose to any person any information disclosed by the Licensor to the Licensee concerning the Product which is:
- (a) marked confidential, private, or not to be disclosed or secret;
  - (b) by its nature confidential to the Licensor.
- 6.2 The Licensor must not disclose any confidential information disclosed to the Licensor by the Licensee.

## **7 Co-Operation and Good faith**

- 7.1 The parties will in all their dealings with each other act reasonably and in good faith.
- 7.2 Nothing in this clause prevents the Licensor from exercising any of the Licensor's rights in the event of breach by the Licensee.

## **8 Limitation of Liability**

- 8.1 The Licensee acknowledges to the Licensor and it is hereby expressly agreed that the Licensor will not be liable to the Licensee for any loss or damage (including loss of profits and consequential damage) suffered by the Licensee as a direct or indirect consequence of the use by the Licensee of the Product.
- 8.2 Where liability on the part of the Licensor cannot for any reason be fully excluded under clause 8.1 then the Licensor will only be liable to the Licensee for damages capped at the total amount received by the Licensor from the Licensee by way of Licence Fees and the Licensee hereby expressly waives and abandons any entitlement



it might otherwise have to claim any sum by way of damages or compensation from the Licensor to the extent to which that sum exceeds the aggregate amount of the Licence Fees received by the Licensor under this Agreement.

## **9 Whole Agreement**

- 9.1 This Agreement represents the whole of the terms of the licence between the Licensor and the Licensee and all representations, undertakings, prior agreements or arrangements are expressly excluded. The Licensee expressly acknowledges that in entering into this Agreement it has not relied upon any prior representation made by the Licensor concerning the Product, its uses or specifications.

## **10 General**

- 10.1 All modifications to this Agreement must be in writing and be signed by duly authorised representatives of both parties.
- 10.2 This Agreement may not be assigned or transferred by either party without the prior written consent of the other.
- 10.3 Each party has had the opportunity before signing this Agreement to obtain separate and independent legal advice as to the effect of this Agreement upon that party.
- 10.4 Any waiver of any right or entitlement under this Agreement must be in writing signed by the party waiving that right or entitlement.

## **11 Jurisdiction and Proper Law**

- 11.1 This Licence is governed by and is to be construed and enforced in accordance with the laws of the Republic of South Africa in which the Licensor carries on the Business and if in more than one Province, then in the Province in which its registered office is. Any court proceedings brought to enforce any provision of this Agreement will be brought in courts of that Province and the parties submit to the jurisdiction of those courts.

## EXECUTED AS AN AGREEMENT

**SIGNED BY** )  
**Company Pty Ltd** )  
in the presence of: )  
 )

\_\_\_\_\_  
Signature of Witness

Print Name:

\_\_\_\_\_  
Director

Print Name:

\_\_\_\_\_  
Director/Secretary

Print Name:

**SIGNED BY** )  
**Other Company Pty Ltd** )  
in the presence of: )  
 )

\_\_\_\_\_  
Signature of Witness

Print Name:

\_\_\_\_\_  
Director

Print Name:

\_\_\_\_\_  
Director/Secretary

Print Name:

## **SCHEDULE**

**PART-A.**

ABC inflatable pen.

**PART-B.**

to manufacture the pens.

**PART-C.**

31 days from the start date of the contract.

**PART-D.**

South Africa.

**PART-E.**

R27 per unit

**SAMPLE ONLY**  
YOUR DOCUMENT WILL VARY DEPENDING ON THE ANSWERS YOU  
PROVIDE THROUGH THE BUILDING PROCESS