

## TRADEMARK LICENCE AGREEMENT

This Trademark licence agreement (the **Agreement**) is entered into as of this [Date] :

### BETWEEN:

[Full Name of Legal Entity], a company incorporated under the laws of [jurisdiction], with its registered offices at [address] (**Licensor**), and

[Full Name of Legal Entity], a company incorporated under the laws of [jurisdiction], with its registered offices at [address] (**Licensee**).

### WHEREAS:

Licensor is the owner of the Trademark (capitalised terms are defined in Article 1).

Licensee wishes to [Either: use [OR: [OPTIONAL: (according to the scope of licensed use): to manufacture, promote, distribute and sell] the Products [to the Market in the Territory]]. Licensor is willing to grant Licensee a licence under the Trademark.

**NOW THEREFORE**, the Parties agree as follows:

### INTERPRETATION

#### Definitions.

**Affiliate** means, in relation to a person, any company or other entity, whether or not a legal person, which directly or indirectly controls, is controlled by or is under joint control with that person. For this purpose, a person is deemed to **control** a company or entity if it (a) owns, directly or indirectly, more than 50 percent of the capital of the other company, or (b) in the absence of such ownership interest, substantially has the power to direct or cause the direction of the management and set the policies of such company or entity.

**Confidential Information** means any information of a non-public, confidential or proprietary nature, whether of commercial, financial or technical nature, customer, supplier, product or production-related or otherwise, including samples, information relating to raw materials, specifications, software, patent applications, process designs, process models, materials and ideas, disclosed by a Party (the **Disclosing Party**) to the other Party (the **Receiving Party**). Such information may be disclosed in any form, provided that it is disclosed reasonably in connection with this Agreement.

**Market** means the market segment of [edit Market segment].

**Products** means [Option 1: the products listed in **0**, as amended by Licensor from time to time ]

[Option 2: specify or describe the products]

**Territory** means [specify countries or geographical scope].

**Trademark** means the trademark identified on **0**.

#### Interpretation.

Except as otherwise defined, in this Agreement references to a communication **in writing** shall include e-mail and electronic messages accessible and printable by commonly used software

applications; references to Articles, Sections and Annexes are references to articles and sections of and annexes to this Agreement.

### **Annexes and priority.**

The Annexes are an integral part of this Agreement and references to this Agreement include its Annexes. In the event of any ambiguity or inconsistency between the provisions of an Annex and in the body of this Agreement, the latter prevails.

### **Best efforts.**

Where any obligation is qualified or phrased by reference to use **reasonable endeavours**, **best efforts** or wording of a similar nature, it means the efforts that a determined and reasonable person desirous of achieving a result would use in similar circumstances to ensure that such result is achieved as expeditious as possible. The person under such an obligation shall, if a result aimed at is not achieved or achieved after delay, upon the request by a Party provide evidence of (a) all actions taken in order to fulfil this obligation, (b) any choices made where two or more alternative courses of action would have been reasonably appropriate, and (c) plausibly how any external factors (adversely) influenced its performance and the achieved result.

## **1. LICENCE SCOPE**

1.1 **Licence.** Subject to the terms of this Agreement, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a [**Options: royalty-bearing, fully paid-up, royalty-free**], [**Options: exclusive, non-exclusive, sole**] licence, [**Options: with, without**] the right to sub-license, [**Option 1: to use** [**Option 2: to manufacture, promote, distribute and sell**] the Products [**Optional: to the Market in the Territory**] under the Trademark (the **Licence**).

1.2 [**Optional: Limited right to sub-license.** Subject to the limitations applicable to Licensee, Licensee is entitled to grant sub-licences to:

- (a) [**Optional: (sub-licensing to Affiliates):** its Affiliates, which are not also an Affiliate of a third party, with a (limited) right to use the Trademark, provided that such sub-license terminates:
  - (i) upon termination of this Agreement; or
  - (ii) upon such sub-licensed Affiliate ceasing to be an "Affiliate" of Licensee;
- (b) [**Optional: (sub-licensing to suppliers and subcontractors):** its suppliers and subcontractors, with a (limited) right to use the Trademark for Licensee's exclusive benefit, provided that the sub-license shall be no more extensive than is strictly required for providing such subcontractor's services to Licensee, and provided furthermore that such sub-license terminates:
  - (i) upon termination of this Agreement; or
  - (ii) upon such subcontractor ceasing to be a subcontractor of Licensee for the sub-licensed type of services or supplies.

Each sub-licence as referred to in this paragraph (b) shall be subject to the prior approval of Licensor, which approval shall not unreasonably be withheld or delayed.

[**Optional**: If Licensee wishes to grant any sub-licence other than expressly permitted in this Section 1.2, the Parties shall negotiate in good faith the terms of such sub-licence.]

- 1.3 [**Optional: Exclusivity**. The exclusivity of the Licence only applies to [**Option 1**: the Territory ][**Option 2**: the territory of [*specify country or geographical area within the Territory as defined above*]. [**Optional**: The exclusivity of the Licence shall terminate [upon expiry of an initial term of [*specify*] months after the date of this Agreement].
- 1.4 **Changes to Annex 1**. Licensor may, at its discretion, add or remove trademark symbols, logos, word marks or other indicators in 0, subject to prior notice to Licensee.

## 2. LICENCE RESTRICTIONS

### General limitation.

Licensee's rights under this Agreement shall be no more extensive in scope and duration than Licensor's rights and limited to the Trademark in 0.

- 2.1 **Limitations of use**. Licensee shall not do, or omit to do, anything to prejudice the distinctiveness, validity or goodwill of the Trademark, to diminish the rights of Licensor in the Trademark or to impair any registration of the (license of the) Trademark. Licensee shall not use the Trademark in its company, business, trade or domain names or trademarks.
- 2.2 **Similar marks**. Licensee shall not use any trademark, trade name or domain name [in the Market in the Territory] which so resemble the Trademark that it is likely to cause confusion or deception.
- 2.3 **Use only in relation to business**. Licensee shall use the Trademark only in relation to its business in connection with the Products. Other use of the Trademark is subject to the prior approval of Licensor.
- 2.4 [**Optional (important note)**: *many competition laws prohibit including a termination ground, which attempts to prevent that a licensee challenges the validity of the trademark*. **No challenge of validity**. Licensee shall not dispute the validity of the Trademark or the rights of Licensor to the Trademark. ]
- 2.5 [**Sales outside Territory**. Licensee shall not actively solicit orders for Products from persons outside the Territory. [**Optional (important: in case the Territory is an EU member state)**: Nothing in this Agreement shall prevent Licensee to sell its Products outside the Territory into an EU member state if it did not actively solicit such orders. ]

## 3. TRADEMARK USAGE AND MARKETING

- 3.1 **Branding guidelines**. Licensee shall strictly comply with Licensor's Trademark branding guidelines, [**Option 1**: attached as 0][**Option 2**: available at [*insert reference to Licensor's website*]] as amended from time to time.
- 3.2 **Marketing and sales efforts**. Licensee shall use its best efforts to achieve maximum sales of the Products and generally to expand the distribution of the Products [to the Market in the Territory].
- 3.3 **Adequate sales support**. Licensee shall maintain for its own risk and account a sales organisation adequate and competent to promote and sell the Products effectively and to reputable and financially viable parties and shall provide consumer services in relation to the Products, including in respect of repair and maintenance services.

3.4 **Marketing materials.** Licensee shall not use any advertising, marketing or other materials, including on internet, in relation to the Trademark or the Products without the prior written approval of Licensor.

3.5 **[Optional: Indication of origin.** On each Product and each package containing the Product, Licensee shall indicate that the Trademark is owned by Licensor, by printing the following notice:

*“Made by [insert name Licensee] in [specify place] under licence from [insert name Licensor]. [Identify wordmark] is the [registered] trademark of [insert name Licensor].”*

**[Optional:** In all marketing or other materials, the Trademark shall be identified as a registered trademark with the symbol ® or as a trademark with the symbol ™.]

#### 4. PRODUCTS, PACKAGING AND QUALITY ASSURANCE

4.1 **Product specifications.** Licensee shall manufacture the Products in accordance with the specifications, standards and instructions provided by Licensor from time to time. **[Optional:** The initial specifications of the Products are attached as 0.] The Products may not adversely affect reputation or goodwill of Licensor or the Trademark. Licensee shall comply with best industry practices and standards, among others on quality, health, environment and safety.

Licensor shall give Licensee written notice of any changes to the specifications and standards referred to in this Section 4.1 and Licensee shall implement such changes as soon as reasonably practicable.

4.2 **Samples and packaging materials.** Prior to market, sell, distribute or otherwise use a series of Products, Licensee shall submit to Licensor for approval a model or sample of the Products and of all related packaging and advertising materials. Licensor may determine in its sole discretion whether the model or sample qualifies as “Product” as identified or described in 0.

4.3 **Inferior or rejected goods.** Licensee shall not, and shall not permit any third party to, market, sell, distribute or otherwise use for any purpose, (a) any Products which are damaged or defective, or (b) any products which Licensor rejected by virtue of Section 4.2 and products which contain or use the Trademark.

4.4 **Quality audits.** Subject to reasonable prior notice, Licensee shall permit Licensor to, at its own expense, access Licensee’s offices and other premises in order to verify Licensee’s compliance with Licensor’s standards of quality and other obligations under this Agreement.

#### 5. LICENCE FEES

5.1 **[Optional: Licence entrance fee.** Licensee shall pay to Licensor an initial fee of [specify amount and currency] within [specify number of days] days after the execution of this Agreement.]

5.2 **Net Sales royalty.** Licensee shall pay to Licensor a recurring licence fee of [specify] percent, based on the total amount invoiced by Licensee and its Affiliates for the Products, excluding:

(a) rebates, returns and sale discounts to Licensee’s customers;

- (b) transportation, packaging and insurance costs;
- (c) taxes and duties paid on the sale of the Products; and
- (d) sales to Licensee's Affiliates (for the avoidance of doubt, notwithstanding the amounts invoiced by such Affiliates to any third-party customers).

[Alternative royalty structures might be: a per-unit royalty and percentage rate variable over the term, e.g. increasing over the term based on the assumption that sales increase over time; or partly a fixed amount per royalty period (being an incentive to exceed certain sales levels, or avoiding price dumping behaviour) and partly a percentage of net sales.]

- 5.3 **[Optional: Minimum licence fee.** Annually within one month after the end of a 12-months term of this Agreement, Licensee shall pay to Licensor a minimum royalty amount of [specify amount] **[Optional:** less any licence fees accrued and paid to Licensor during such preceding 12-months term].
- 5.4 **Royalty reporting.** Within [number of days] days after the end of each [**Specify: one / three / six months**] period, Licensee shall provide Licensor with a written statement of the licence fees accrued during such preceding period. The statement must specify the elements identified in Section 5.2 (including the amounts in paragraphs 5.2(a), 5.2(b), 5.2(c) and 5.2(d)).
- 5.5 **Books and records.** Licensor shall adequately account for all sales of all Products under the Trademark in its books and records.
- 5.6 **Royalty audits.** Subject to a [ten] days written notice, Licensee shall permit Licensor to have an auditor of a certified accounting firm selected by Licensor audit Licensee's accounts and records, during business days and normal working hours, in order to verify the accuracy of the reported net sales amounts and the calculated licence fees.

Licensee shall provide the auditor with all assistance and cooperation as the auditor may reasonably need in order to perform its audit efficiently and effectively. Except in case of any structural or material irregularities, (a) an audit shall not be conducted more than once per year, and (b) the costs of the audit shall be borne by Licensor.

**[Optional:** If an audit reveals any underpayment of licence fees, Licensee shall promptly make up for the underpayment together with interest on such amount, calculated from the due date of such underpaid amount, at the rate specified in Section 6.3.

If an audit reveals any overpayment of licence fees, Licensor shall promptly make up for such overpayment. If such overpayment was caused by a mistake of Licensor, Licensor shall also pay interest on such amount, calculated from the date of receipt of such overpaid amount, at the rate specified in Section 6.3. ]

This Section 5.6 shall remain in effect for a period of one year after a termination of this Agreement.

## 6. PAYMENT

- 6.1 **Payment term.** Licensee shall pay all amounts due pursuant to Article 5 to Licensor in [specify currency], within [specify number of days] days from the end of the royalty period referred to in Section 5.4.
- 6.2 **Late payments.** If Licensee fails to pay the amounts at the agreed time, Licensor shall fix to Licensee an additional period of time of [specify the length] for performance of

payment. If Licensee fails to pay the amounts at the expiration of the additional period, Licensor may declare this Agreement avoided in accordance with Article [13].

6.3 **[Optional: Interest.** If Licensee fails to pay the licence fees within the agreed time, Licensor shall in any event be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at a rate of [specify percent] per annum. **[Alternatively: Specify other rate of interest agreed by the Parties.]**

6.4 **Taxes.** The following applies in respect of any value added tax (VAT), sales tax, income tax, consumption tax or any other similar tax, duty, fee, levy or other governmental charge, customs duties and other levies (**Taxes**):

- (a) all amounts in this Agreement are gross amounts but exclusive of any Taxes, except as specified otherwise; and
- (b) if any payment under this Agreement is subject to any Taxes, Licensor shall be entitled to charge such Taxes to Licensee, which shall be paid by Licensee in addition to the payments pursuant to this Agreement.

To the extent that licence fee payments are subject to withholding Taxes, Licensee shall pay such additional amount to Licensor as shall, after deduction of such withholding Taxes, be equivalent to the licence fees otherwise payable under this Agreement. Licensee shall provide Licensor with true copies of the relevant tax deduction certificates.

## 7. INTELLECTUAL PROPERTY RIGHTS

7.1 **Ownership.** The Trademark is licensed, not sold or assigned. Licensor is the owner of the Trademark and the owner of all trademark and domain name applications and registrations, containing the Trademark. Except as expressly provided in this Agreement, no other rights or licences are granted or implied.

7.2 **Accrual of rights.** All rights to and goodwill associated with the Trademark resulting from Licensee's use of the Trademark shall accrue to Licensor. Licensee shall do all such things as may be necessary to vest all rights to and goodwill in the Trademark in the name of Licensor.

7.3 **Artwork.** All copyrights and other intellectual property rights in any artwork used for the labelling or packaging of the Products shall be owned by Licensor.

7.4 **Reputation and goodwill.** Licensee shall assist Licensor in protecting Licensor's reputation and the goodwill associated with the Trademark.

## 8. REGISTRATIONS

8.1 **Trademark registration.** Licensor shall maintain the existing registrations of the Trademark [in the key jurisdictions of the Market][in the Territory]. Licensee shall provide, at the request and expense of Licensor, all necessary assistance in applying for and maintaining such registrations.

8.2 **Prohibited registrations.** Licensee shall not apply for or register a trademark or a domain name which in the opinion of Licensor is similar to the Trademark for any products or services. Upon Licensor's request, Licensee shall assign the ownership of such trademark or domain name to Licensor.

- 8.3 **[Optional: Licence registration.** The Parties are entitled to register the Licence at the trademark register or other relevant register [in the key jurisdictions of the Market][in the Territory]**[Optional:**, such that the registration shall contain only the terms identified in 0**]**. Licensor shall assist Licensee in obtaining the registration.
- 8.4 **[Optional: (Is a registration of the Product required?): Product registration.** Licensee shall register the Products with the competent authorities and take all other administrative actions in relation to the Products, to the extent required to introduce, promote, market and sell the Products [in the Territory][to the Market]. Licensor shall cooperate in connection with such registration and other administrative actions in respect of the Products.
- 8.5 **Compliance with laws.** Licensee shall comply with all laws and regulations applicable to the Licence.

## 9. TRADEMARK INFRINGEMENTS

- 9.1 **Infringement.** Licensee shall promptly notify Licensor of:

- (a) any third party or any of its employees infringing (whether actual, threatening or suspected), misappropriating or passing-off the Trademark, or competing unfairly with or using without authorisation the Trademark, in each case identifying (if known) the persons involved.
- (b) any third party claim of ownership, infringement, misappropriation or passing-off of the Trademark, or unfair competition relating to the Trademark. Licensee shall not respond to any such claim and shall make no statement as to validity of the Trademark registration or application without the written approval of Licensor. Licensee shall make no admissions as to liability.

Licensee shall (a) only take actions after written approval of Licensor, and (b) refrain from discussing or accepting any settlement or compromising on any action (or on omitting to act).

- 9.2 **Enforcement action.** Licensor has the sole right to determine what action (if any) shall be taken and by which Party. Licensor shall have control over legal proceedings arising out of any such action. Licensee shall assist Licensor in taking actions in connection with an infringement, including starting legal proceedings.
- 9.3 **Licensor's indemnity.** Licensor shall defend and indemnify Licensee against all claims, losses and damages made or incurred by third parties arising out of or in connection with (a) Licensee's use of the Trademark in accordance with this Agreement, and (b) Licensor's failure to comply with applicable laws and regulations [outside the Territory].
- 9.4 **Licensee's indemnity.** Licensee shall defend and indemnify Licensor against all claims, losses and damages made or incurred by third parties arising out of or in connection with (a) Licensee's use of the Trademark other than in accordance with this Agreement, and (b) Licensee's failure to comply with applicable laws and regulations.

## 10. WARRANTIES

- 10.1 **Licensor's warranty.** Licensor warrants to Licensee that on the date of this Agreement:

- it is the sole owner of the Trademark;

- it is unaware of any infringement of the Trademark by any third party trademark, logo, design or similar indicators; and
- has not received a notice claiming or alleging that the Trademark infringes the rights of a third party.

10.2 **Warranties.** Each Party warrants to the other that entering into and performance of this Agreement by it:

- does not constitute a breach of any obligation or duty by it or any of its Affiliates to any other person, any rights of any other person or any other legal provision; and
- does not require any governmental or other approvals or, if any such approval is required, it has been obtained.

## 11. LIMITATION OF LIABILITY

11.1 **[Optional: No indirect damages.** *No Party shall be liable to the other Party by reason of any representation (unless fraudulent) or any implied warranty, condition or other term, for any loss of profit or any indirect, special or consequential loss or damage (whether caused by the negligence of that Party, its employees or agents or otherwise) in relation to the Trademark or Products (or any failure to supply them) or their resale by Licensee, or otherwise arising out of or in connection with this Agreement.*

11.2 **[Optional: Limitation of liability.** In all cases in which a Party is liable towards the other Party for any damages or losses, such Party's aggregate, cumulative liability under this Agreement shall not exceed **[Option 1** *(a reasonable, turnover-related amount):* [[100 percent of] the amounts paid pursuant to this Agreement during the [12 months] preceding the event that gave rise to the claim] **[Option 2** *(merely a fixed amount):* *[insert fixed amount and currency] **[Option 3** *(a reasonable, turnover-related amount with safeguards for the initial, risky period):* the higher of [[100 percent of] the amounts paid pursuant to this Agreement during the [12 months] preceding the event that gave rise to the claim] and *[insert fixed amount and currency]* **[Option 4** *(a turnover-related amount with safeguards if the liable party has a very high cost base):* the lower of the amounts paid pursuant to this Agreement during the [12 months] preceding the event that gave rise to the claim] and *[insert fixed amount and currency]*].*

## 12. [OPTIONAL: CONFIDENTIALITY

**General.** A Receiving Party shall not use Confidential Information for purposes other than in direct relation with this Agreement. The Receiving Party shall treat the Disclosing Party's Confidential Information with at least the same degree of care as it would use in respect of its own confidential information of similar importance, but in any event a reasonable level of care. A Receiving Party shall handle, test, use and keep the Disclosing Party's Confidential Information in conformity with all applicable legal requirements (if applicable). Except as provided otherwise, the Receiving Party shall not disclose, publish, disseminate or make accessible any part of the Disclosing Party's Confidential Information, in any way or form, to anyone.

**Exemptions.** The restrictions and obligations in this Article 12 shall not apply to the Disclosing Party's Confidential Information, which:

is or becomes generally available to the public other than as a result of a disclosure by the Receiving Party (or its representatives);

was received by the Receiving Party from a third party and not indirectly from the Disclosing Party in violation of any obligation of secrecy or non-use; or

was in the possession of the Receiving Party prior to disclosure or is developed independent from such Confidential Information, as is shown by competent evidence.

**Court orders.** In case Confidential Information is required to be disclosed by the Receiving Party by virtue of a court order or statutory duty, the Receiving Party shall be allowed to do so, provided that it shall without delay inform the Disclosing Party in writing of receipt of such order or duty and enable the Disclosing Party reasonably to seek protection against such order or duty.

**Delete or destroy.** Upon the first request of a Disclosing Party, the Receiving Party shall without delay (a) return all their copies, samples and extracts of, and all other physical media containing, the Disclosing Party's Confidential Information, and (b) delete or destroy (and have deleted or destroyed) all automated data containing the Disclosing Party's Confidential Information.

**Post-termination.** Notwithstanding the expiry or termination of this Agreement, the secrecy and non-use obligations of the Receiving Party shall continue for five years after expiry or termination of this Agreement.

### 13. TERM AND TERMINATION

13.1 **Term.** This Agreement will take effect on the date of its signature by both Parties or, if signatures do not occur simultaneously, when the latest signature is given. Unless sooner terminated pursuant to Article 13.2, 13.3 or 13.4, this Agreement shall continue for a period of *[specify period]*.

13.2 **Termination grounds.** A Party shall be entitled to terminate this Agreement by giving written notice to the other if:

- (a) the other Party breaches any material obligation and such breach has not been remedied within *[specify number of days]* after receipt of a written notice indicating the breach and the possibility of termination;
- (b) the other Party shall be dissolved or liquidated, is declared bankrupt or otherwise insolvent, enters into suspension of payment proceedings, or if it must reasonably be expected to be unable to meet its obligations under this Agreement;
- (c) the financial condition of the other Party changes in such a way to render it reasonably unacceptable for the former Party to continue this Agreement; or
- (d) the other Party fails to comply with the laws and regulations to which it is subject.

13.3 **Material breach.** Licensor may at its option terminate this Agreement forthwith by giving written notice to Licensee, if:

- (a) Licensee fails to produce samples of the Products under Article 4 in accordance with the specifications and to the reasonable satisfaction of Licensor on or before *[specify date]*;
- (b) *[Important note: many competition laws prohibit including a termination ground, which attempts to prevent that a licensee challenges the validity of the trademark: disputes the validity of the Trademark or the rights of Licensor to the Trademark;]*

- (c) acts (or omits to act) such that, at the discretion of Licensor, it persistently dilutes, genericises or damages the reputation or goodwill of the Trademark; or
- (d) is the subject of a change of control or if the management is changed or if there is change in its sphere of activities and such change is reasonably (potentially) detrimental to Licensor's business interests.

13.4 **Termination for convenience.** Each Party may terminate this Agreement for convenience, by giving a six months written notice to the other Party.

13.5 **Other remedies.** The rights to terminate this Agreement shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

## 14. CONSEQUENCES OF TERMINATION

**Effects.** Upon termination of this Agreement:

Repurchase right. Licensor shall be entitled to repurchase from Licensee all or part of any stocks of the Products then held by Licensee at their invoice value or the value at which they stand in the books of Licensee, whichever is lower, subject to the following provisions:

Licensor shall arrange and bear the cost of transport and insurance;

Licensee may sell stocks for which it has accepted orders from customers prior to the date of the termination notice, or in respect of which Licensor does not, by giving written notice to Licensee within *[specify period]* after the date of termination, exercise its right to repurchase; and for those purposes and to the necessary extent, the provisions of this Agreement shall continue in full force and effect.

Return of samples. Licensee shall at its own expense send to Licensor or otherwise dispose of in accordance with the directions of Licensor all samples of the Products and any advertising, promotional or sales material relating to the Products then in the possession of Licensee.

Outstanding invoices. Any outstanding unpaid amounts or invoices becomes immediately payable by Licensee and invoices in respect of Products ordered prior to termination but for which no fee has been reported yet shall be payable immediately.

Cease promotion. Licensee shall cease to promote, market or advertise the Products or to make any use of the Trademarks or any other intellectual property of Licensor except for the purpose of selling any Products in respect of which Licensor does not exercise its right or repurchase.

Existing registrations. Licensee shall at its own expense join with Licensor in procuring the cancellation or transfer of any registration in its name effected pursuant to Article 8.

**Continuing obligations.** Provisions which, by their very nature, are intended to continue notwithstanding an expiry or termination of this Agreement, shall continue in full force and effect.

## 15. MISCELLANEOUS

**Further assurances.** The Parties shall cooperate with each other and execute to the other Party such forms and documents and take such other actions as may reasonably be requested from time to time in order to carry out, evidence or confirm the other Party's rights or obligations or as may be reasonably necessary or helpful to give effect to the provisions of this Agreement.

**Amendments.** No amendment of this Agreement shall be binding upon either Party, unless it is in writing and duly signed by both Parties.

**Assignment.** No Party may assign rights or obligations of this Agreement without the consent of the other Party, which consent shall not unreasonably be withheld or delayed; except that Service Provider may, without such consent, on written notice to the other Party, assign any of its rights or obligations under this Agreement to its Affiliates. Notwithstanding the previous sentence, each Party may assign this Agreement without the prior consent of the other Party, to a purchaser of all or substantially all of the assets or a business of such Party, provided that such assignment shall not be to a competitor of the other Party in the subject field of this Agreement.

**Independent contractors.** The Parties are independent contractors. No Party shall have any power or authority to assume on behalf of or in the name of the other Party any obligations or duties or to bind the other Party to any agreement, obligation or other commitment vis-à-vis any third party.

**Severability.** If any provision in this Agreement is found to be invalid or unenforceable in any respect in any jurisdiction:

- the validity or enforceability of such provision shall not in any way be affected in respect of any other jurisdiction and the validity and enforceability of the remaining provisions shall not be affected, unless this Agreement reasonably fails in its essential purpose; and
- the Parties shall substitute such provision by a valid and enforceable provision approximating to the greatest extent possible the essential purpose of the invalid or unenforceable provision.

## 16. APPLICABLE LAW AND DISPUTE RESOLUTION

**Applicable law.** This Agreement is governed by the laws of [jurisdiction].

**Jurisdiction.** Any disputes arising out of or in connection with this Agreement shall exclusively be referred to the competent courts of [jurisdiction].

**THUS**, this Agreement was signed in two copies.

[Full name of legal entity]

[Full name of legal entity]

By: \_\_\_\_\_

By: \_\_\_\_\_

## Trademarks

[Insert the [TRADEMARK], including the registrations [and the applications for registration] in the Territory]

[Insert trademark logos and trademark-related designs or indicators here]

### **Pro forma Trademark licence**

#### **Licence scope**

*Clauses to be copy-pasted here include:* the licence grant (Section 1.1) and (in case of permitted sublicensing) the sub-licensing clause (Section 1.2).

#### **Licence restrictions**

*Clauses to be copy-pasted here include:* obligations not to do or omit anything affecting the distinctiveness, validity or goodwill of the Trademark (Section 2.1), and not to use or register any confusing trademarks (Section 2.2).

#### **Intellectual property rights**

*Clauses to be copy-pasted here include:* stipulation of non-assignment and ownership (Section 7.1), accrual of usage to Licensor (Section 7.2) and ownership of copyrights in artwork (Section 7.3).

#### **Term and termination**

*Clauses to be copy-pasted here include:* a simplified Section 13.1 (regarding duration of the licence), the ordinary grounds for termination (Sections 13.2 and 13.4), as well as Licensor's specific termination rights (Section 13.3), particularly if this includes change of control over Licensee, and if challenging the trademark is clearly not a violation of applicable competition laws, such termination right.

### **Products and supporting services**

[Insert a list of the products, (technical) product specifications and any supporting services required to be delivered by Licensee]

### **Brand guidelines**

[Insert the brand guidelines applicable to the Trademark used with the Products]