

DATED _____

(1) <<Name of Manufacturer>>

(2) <<Name of Licensee>>

MANUFACTURING LICENCE AGREEMENT

THIS AGREEMENT is made the day of

BETWEEN:

- (1) <<Name of Manufacturer>> a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at <<Registered Office>> (“the Manufacturer”) and
- (2) <<Name of Licensee>> a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at <<Registered Office>> (“the Licensee”)

WHEREAS:

- (1) The Manufacturer manufactures markets, sells and distributes the Product(s) detailed in Schedule 1.
- (2) The Licensee wishes to manufacture, market, sell and distribute the Product(s) in the Territory.
- (3) The Manufacturer wishes to grant a licence to manufacture the Product(s) in the Territory to the Licensee subject to the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

“Confidential Information”	means information relating to this Agreement, any business information relating to either Party, and any other information which either Party may designate confidential;
“Effective Date”	means [<<insert date>>] OR [the date of this Agreement];
“Gross Receipts”	means all sums arising from the sale of the Product(s) before any deductions of any nature are made;
“Initial Fee”	means the initial payment due from the Licensee to the Manufacturer as set out in Clause 7;

“Intellectual Property Rights”

means any patents, trade marks, designs, applications (and other rights) trade, business and company names and domain names and e-mail addresses, copyright, know-how, rights in designs and inventions;

(b) rights in inventions, patents, orders, statutes or other laws;

(c) rights in inventions, patents, orders, statutes or other laws (b) which now or in the future;

(d) the rights in inventions, patents, orders, statutes or other laws (b) which now or in the future;

any patents, trade marks, designs, applications (and other rights) trade, business and company names and domain names and e-mail addresses, copyright, know-how, rights in designs and inventions;

(b) rights in inventions, patents, orders, statutes or other laws;

(c) rights in inventions, patents, orders, statutes or other laws (b) which now or in the future;

(d) the rights in inventions, patents, orders, statutes or other laws (b) which now or in the future;

“Know-How and Technical Assistance Agreement”

means the Manufacturing Licence Agreement between the Manufacturer and the Licensee;

insert date>> between the Manufacturer and the Licensee see for the provision of technical assistance relevant to the Manufacturing Licence Agreement which is annexed to this Agreement;

“Manufacturer’s Trade Mark(s)”

means the trade mark(s) which the Manufacturer uses on the Product(s) as specified in Schedule 1;

the Manufacturer uses on the Product(s) as specified in Schedule 1;

“Net Receipts”

means the net receipts from the Product(s) subject to deduction of any sales tax, other sales tax, packaging costs, insurance [and any other deductible costs];

the net receipts from the Product(s) subject to deduction of any sales tax, other sales tax, packaging costs, insurance [and any other deductible costs];

“Premises”

means the premises at which the Manufacturer manufactures the Product(s) at <<insert location>>;

manufacturing facilities at <<insert location>>;

“Product(s)”

means the product(s) which are to be manufactured under this Agreement and are specified in Schedule 1 which are to be manufactured under this Agreement and are specified in Schedule 1;

the product(s) which are to be manufactured under this Agreement and are specified in Schedule 1 which are to be manufactured under this Agreement and are specified in Schedule 1;

“Product Specification(s)”

means the product specification(s) as detailed in Schedule 1;

the product specification(s) as detailed in Schedule 1;

“Quarter”

means the quarter of the year which shall end on 31st March, 31st June, 31st September and 31st December respectively. The first quarter shall begin on the date of the Effective Date of the Agreement and the subsequent quarters shall end on the date of the Effective Date of the Agreement;

which shall end on 31st March, 31st June, 31st September and 31st December respectively. The first quarter shall begin on the date of the Effective Date of the Agreement and the subsequent quarters shall end on the date of the Effective Date of the Agreement;

“Royalty / Royalties”

means the royalty to be paid by the Licensee to the Manufacturer in accordance with Clause 12.

the Licensee to the Manufacturer in accordance with Clause 12.

“Term”

means the term of the Agreement as set out in Clause 12.

the term of the Agreement as set out in Clause 12.

“Territory”

<<insert>>.

- 1.2 Unless the context otherwise requires, the following definitions shall apply in this Agreement to:
- 1.2.1 “writing”, and any other form of communication effected by electronic facsimile transmission or similar means;
 - 1.2.2 a statute or a provision of law, in reference to that statute or provision as amended at the relevant time;
 - 1.2.3 “this Agreement” is the Agreement and each of the Schedules as amended at the relevant time;
 - 1.2.4 a Schedule is a schedule of this Agreement;
 - 1.2.5 a Clause or paragraph is a Clause or paragraph of this Agreement (other than the Schedules) of the relevant Schedule; and
 - 1.2.6 a “Party” or the “Parties” are the Parties to this Agreement.
- 1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of the Agreement.
- 1.4 Words imparting the singular shall include the plural and vice versa.

2. **Grant of Rights**

- 2.1 The Manufacturer hereby grants to the Licensee a [non-exclusive] **OR** [an exclusive] licence to manufacture, market, sell and distribute the Product(s) in the Territory for the Term of this Agreement, subject to the terms and conditions of this Agreement.
- 2.2 The Manufacturer hereby grants to the Licensee [non-exclusive] **OR** [an exclusive] [licence] **OR** [a right] to use, reproduce, copy and all other Intellectual Property Rights, registered or unregistered, to enable the Licensee to fully exercise its rights and obligations under this Agreement for the Term in the Territory.
- 2.3 The Licensee shall [not] be entitled to any or all of its rights arising under this Agreement.
- 2.4 The Manufacturer shall [not] be entitled to manufacture, market, sell and distribute the Product(s) in the Territory for the Term.
- 2.5 The Manufacturer shall [not] be entitled to grant additional licences to any other party to manufacture, market, sell and distribute the Product(s) in the Territory during the Term.

3. **Know-How and Technical Assistance**

Throughout the Term the Manufacturer shall provide know-how and technical assistance to the Licensee in accordance with the Know-How and Technical Assistance Agreement.

4. **Manufacture of the Product(s)**

- 4.1 During the Term the Licensee shall manufacture the Product(s) in accordance with the Product Specifications or reasonable specifications or reasonable instructions supplied by the Manufacturer in writing from time to time.
- 4.2 The Licensee shall apply the Trade Mark(s) to the Product(s) in accordance with the directions of the Manufacturer.
- 4.3 The Manufacturer shall have the right to inspect the Product(s) not exceeding <<insert number>> times per <<insert period>> from the date of the Licensee on reasonable notice. The Licensee shall have the right to inspect the Premises on reasonable notice at any time during the Term of the Licensee (<<insert business hours>>).
- 4.4 The Manufacturer shall have the right to inspect the Premises on reasonable notice at any time during the Term of the Licensee (<<insert business hours>>).
- 4.5 It shall be the responsibility of the Licensee to ensure that the manufacture and sale of the Product(s) comply with all applicable laws, regulations, standards and codes of practice within the Territory.
- 4.6 The Licensee shall not make any material change to the Product(s), whether required for compliance with applicable laws or otherwise, without the express written agreement of the Manufacturer. Such consent not to be unreasonably withheld. For the purposes of this Clause, "material" shall mean any change which has the potential to (adversely or otherwise) affect the quality, form, fit, function or performance of the Product(s).

5. **Product Improvements**

- 5.1 [Nothing in this Agreement shall affect the Licensee's right to develop new products, processes or improvements to the Product(s).]
- 5.2 In the event that the Licensee develops any products, processes or improvements derived from the Product(s) and all of the same and the Licensee shall become the property of the Manufacturer in good faith and agree to assign the same to the Manufacturer. The Manufacturer shall use the same for its own purposes.]

OR

[The Licensee shall not be permitted to develop new products, processes or improvements to the Product(s) without the express written consent of the Manufacturer.]

6. **Intellectual Property Rights**

- 6.1 Pursuant to Clause 2 the Manufacturer hereby grants the Licensee a licence to use or exploit any and all Intellectual Property Rights necessary to enable the Licensee to fulfil its obligations under this Agreement.
- 6.2 Nothing in this Agreement shall constitute an assignment of ownership or other interest in the Manufacturer's Intellectual Property Rights to the Licensee save for the rights expressly granted by the Manufacturer.

- 6.3 The Licensee acknowledges that the Manufacturer is the owner of the Product(s) and the Intellectual Property rights subsisting therein and that nothing in this Agreement affects the Manufacturer's ownership of the same.
- 6.4 Any goodwill derived from the Manufacturer's Trade Mark accrues to the Manufacturer. The Licensee may at any time call for a confirmatory assignment of the Trade Mark and the Licensee must immediately execute it.

7. Fees and Payment

- 7.1 On or before the Effective Date, the Licensee shall pay to the Manufacturer the Initial Fee of £<< >> in respect of the rights granted under this Agreement.
- 7.2 The Licensee shall pay to the Manufacturer a Royalty of <<insert percentage>>% of the Net Sales of the Product(s) in accordance with sub-Clause 7.3.
- 7.3 Within <<insert period>> of the end of each Quarter, the Licensee shall submit to the Manufacturer a written statement of the Gross and Net Receipts from the Product(s) sold during the Quarter and the Royalties due therefor.
- 7.4 The Royalties payable for each Quarter shall be paid within <<insert period>> of the end of that Quarter.
- 7.5 The Licensee shall be required to maintain and make available books of account detailing all information required for the calculation of Royalties payable under this Agreement.
- 7.6 The Manufacturer shall have the right, on reasonable notice, and during normal working hours, to inspect the books of account and records kept by the licensee under Clause 7.2. Any such inspection shall be carried out by the Manufacturer or its authorised representative unless an underpayment of Royalties is identified by such inspection, in which case it shall be borne by the Licensee.
- 7.7 In the event that a shortfall in Royalties is identified by an inspection carried out by the Manufacturer under Clause 7.6, the Licensee shall immediately pay to the Manufacturer any amount due.

8. Confidentiality

- 8.1 Both Parties undertake that they shall not disclose to any third party, by sub-Clause 8.2 or as otherwise authorised in writing by the Manufacturer, any Confidential Information, in whole or in part, at all times during the term of this Agreement and for a period of <<insert period>> years] after its termination:
- 8.1.1 keep confidential all Confidential Information;
- 8.1.2 not disclose any Confidential Information to any other party;
- 8.1.3 not use any Confidential Information for any purpose other than as contemplated by this Agreement;
- 8.1.4 not make any copies of or part with possession of any Confidential Information.

- 8.1.5 ensure that (as applicable) directors, officers, employees, agents or advisers do not do anything by that Party, would be a breach of the provisions of sub-Clauses 8.1 to 8.1.4.
- 8.2 Subject to sub-Clause 8.1, the disclosing Party shall not disclose any Confidential Information to:
- 8.2.1 any of their sub-contractors;
 - 8.2.2 any governmental or regulatory body; or
 - 8.2.3 any of their employees or agents, or any party described in sub-Clauses 8.2.1 or 8.2.2.
- 8.3 Disclosure under sub-Clause 8.2 is permitted only to the extent that is necessary for the purposes of the Agreement, or as required by law. In each case the disclosing Party must inform the recipient that the Confidential Information is being disclosed and that the recipient is a body described in sub-Clause 8.2. If the recipient is an employee or officer of such a body, the disclosing Party must also submit to the other Party a written undertaking from that employee or officer not to disclose the Confidential Information or for which the disclosure is made.
- 8.4 Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where the Confidential Information is or becomes public knowledge through no fault of the disclosing Party.
- 8.5 When using or disclosing Confidential Information under sub-Clause 8.4, the disclosing Party must ensure that it does not disclose any part of that Confidential Information which is not intended to be disclosed.
- 8.6 The provisions of this Clause shall apply in accordance with their terms, notwithstanding the terms of any other agreement for any reason.

9. **Manufacturer's Warranties**

- 9.1 The Manufacturer hereby warrants that:
- 9.1.1 the Product(s) is/are made wholly and absolutely by the Manufacturer and the Manufacturer shall grant the rights set out in this Agreement;
 - 9.1.2 the Product(s) exists and the Intellectual Property Rights subsisting therein are fully enforceable against the Manufacturer against any third party;
 - 9.1.3 no third party has asserted or claimed the same at the Effective Date;
 - 9.1.4 to the best of its current knowledge [after due and diligent enquiry], the Product(s) is free from any and all charges and encumbrances;
 - 9.1.5 to the best of its current knowledge [after due and diligent enquiry], the Intellectual Property Rights subsisting in the Product(s) are not being infringed (in whole or in part) (so) by any third party as at the Effective Date;
 - 9.1.6 to the best of its current knowledge [after due and diligent enquiry], no third party is infringing the Intellectual Property Rights

subsisting in the Product(s) prior to the period>>] prior to the

within a period of <<insert

9.1.7 nothing in the Product(s) will infringe the statutory rights of any third party.

indecent, obscene, illegal, defamatory and nothing in the Product(s) will infringe the statutory rights of any third party.

9.2 The Manufacturer gives no warranty beyond those detailed in section 9.1 and any other matters arising out of the Agreement.

takes any representations or undertakings in respect to the Product(s) and any other matters arising out of the Agreement.

9.3 The Manufacturer hereby acknowledges that it does not rely on any warranty or undertaking other than those expressly set out in this Agreement for breach of any representation or undertaking specifically contained in this Agreement as a warranty, save for those matters

entering into this Agreement, it does not rely on any warranty or undertaking other than those expressly set out in this Agreement for breach of any representation or undertaking specifically contained in this Agreement as a warranty, save for those matters

10. Licensee's Warranties

10.1 The Licensee hereby warrants that:

10.1.1 it has the right to enter into the Agreement;

10.1.2 it shall pay all sums due to the Manufacturer in a timely manner; and

10.1.3 it shall not exceed the scope of the Agreement.

in a timely manner; and the Licensee shall not exceed the scope of the Agreement.

10.2 The Licensee hereby acknowledges that it does not rely on any warranty or undertaking other than those expressly set out in this Agreement for breach of any representation which is specifically contained in this Agreement as a warranty, save for those matters

entering into this Agreement, it does not rely on any warranty or undertaking other than those expressly set out in this Agreement for breach of any representation which is specifically contained in this Agreement as a warranty, save for those matters

11. Indemnity

11.1 The Manufacturer shall indemnify the Licensee against any claim, loss, damage, proceedings or expenses howsoever arising, directly or indirectly, from the breach or non-performance by the Manufacturer of any of its obligations or warranties as set out in this Agreement.

the Licensee against any claim, loss, damage, proceedings or expenses howsoever arising from the breach or non-performance by the Manufacturer of any of its obligations or warranties as set out in this Agreement.

11.2 The Indemnity in sub-Clause 11.1 shall:

be provided that in all cases the Licensee shall:

11.2.1 notify the Manufacturer of any claim, loss or damage;

be reasonably possible of any claim, loss or damage;

11.2.2 consult with the Manufacturer in relation to be taken in dealing with any such matter;

be taken in dealing with any such matter;

11.2.3 make no agreement to settle or compromise the payment of any sum without the prior agreement of the Manufacturer, such agreement not to be unreasonably withheld.

the payment of any sum without the prior agreement of the Manufacturer, such agreement not to be unreasonably withheld.

11.3 The Licensee shall indemnify the Manufacturer against any claim, loss, damage, proceedings or expenses howsoever arising, directly or indirectly, from the breach or non-performance by the Licensee of any of its obligations or warranties as set out in this Agreement.

the Manufacturer against any claim, loss, damage, proceedings or expenses howsoever arising from the breach or non-performance by the Licensee of any of its obligations or warranties as set out in this Agreement.

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this Agreement.

11.4 [The Licensee shall indemnify the Manufacturer against any claim, loss, damage, cost, expense, interest, costs or expenses howsoever arising, directly or indirectly, in connection with its manufacture or use of the Product(s).]

11.5 The indemnity in sub-Clause 11.4 shall be provided that in all cases the Manufacturer shall:

11.5.1 notify the Licensee as soon as possible of any claim, loss or damage;

11.5.2 consult with the Licensee before any action is to be taken in dealing with any such matters; and

11.5.3 make no agreement to pay or to the payment of any sum without the prior agreement of the Licensee, such agreement not to be unreasonably withheld.

12. Term and Termination

12.1 This Agreement shall come into force on the Date and shall continue in force for the Term of <insert term> or otherwise terminated in accordance with this Clause.

12.2 The Term may be renewed on the same conditions as set out in this Agreement for successive periods of <insert term> upon the agreement of both Parties.

12.3 Either Party has the right to terminate the Agreement immediately by written notice if the other:

12.3.1 has committed a material breach of the Agreement, unless such breach is capable of being remedied, in which case the right to terminate immediately will be exercisable only if the Party has failed to remedy the breach within <insert term> after written notice to do so;

12.3.2 has an encumbrance on its assets (being a company) has a receiver appointed over its assets;

12.3.3 holds a meeting of creditors or enters into any arrangement, moratorium or composition for the benefit of the same (including any arrangement or composition as defined by the Insolvency Act 1986) or becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

12.3.4 has (being an individual) or has (being a company) entered into any order made against it or has been wound up or has been amalgamated or reconstituted in such a manner that the company resulting therefrom is bound by or assumes the obligations of the Party under this Agreement);

12.3.5 ceases, or threatens to cease, to carry on its business.

12.4 Sub-Clause 12.3 shall also apply to anything analogous to any of the provisions of that sub-Clause under the law of any jurisdiction.

12.5 Any and all obligations of the Parties shall expressly or by their nature continue beyond the termination or expiration of this Agreement.

shall survive termination und

13. Post Termination

- 13.1 Upon the termination of this Agreement, the Licensee shall:
- 13.1.1 return any and all material, including the Product(s), including any and all copies made by the Licensee to the Manufacturer;
 - 13.1.2 return any and all material, including the Manufacturer's Trade Mark(s), including any material used by the Licensee to the Manufacturer;
 - 13.1.3 provide to the Manufacturer, within <<insert period>> (as under sub-Clause 7.3) of Royalties due to the Manufacturer for the Product(s) which have occurred since the end of the last accounting period and any other outstanding obligations of the Licensee under this Agreement (including those set out in any schedule to sub-Clause 13.1.3) which, on termination, shall be paid within <<insert period>> of the date of termination;
 - 13.1.4 pay any and all outstanding obligations of the Licensee under this Agreement (including those set out in any schedule to sub-Clause 13.1.3) which, on termination, shall be paid within <<insert period>> of the date of termination;
- 13.2 Subject to the provisions of Clause 13.1, the Licensee shall be free to sell any remaining stocks of the Product(s) for <<insert period>>.
- 13.3 In the event that any stocks of the Product(s) remain following the period set out under sub-Clause 13.2, the Licensee shall be required to either destroy the same or deliver the same to the Manufacturer at the Manufacturer's option. [The Licensee shall be required to complete the sale of such stocks within a further period in order to complete the sale of such stocks, the duration of which shall be at the Manufacturer's sole discretion.]
- 13.4 The Licensee shall continue to be bound by the provisions of Clause 7 for as long as the Licensee is selling the Product(s) under this Clause 13.

14. Non-Assignment of Agreement

Neither Party shall have the right to assign this Agreement, in whole or in part, by contract, or in any other manner make over to any third party, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

15. Notices

- 15.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by the Party giving notice or its authorised officer thereof, as appropriate.
- 15.2 Notices shall be deemed to have been given to the other Party:
- 15.2.1 when delivered, if delivered by hand or by registered mail) during normal business hours of the recipient; or
 - 15.2.2 when sent, if transmitted by email and a successful transmission report is received; or

- 15.2.3 on the fifth business day, if mailed by national ordinary mail, postage paid.
- 15.2.4 on the tenth business day, if mailed by airmail, postage prepaid.
- 15.3 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or telephone number furnished to the other Party.

16. Force Majeure

- 16.1 Neither Party to this Agreement shall be liable for any failure or delay in performing their obligations under this Agreement that is beyond the reasonable control of the Party. Such causes include, but are not limited to: power failure, natural disasters, Provider failure, industrial action, civil unrest, fire, flood, acts of terrorism, acts of war, governmental action or any other event beyond the control of the Party in question.
- 16.2 In the event that any event occurs that prevents either Party's obligations under this Agreement for a period >>, the Parties shall attempt to bring the Agreement to an end as soon as possible thereafter by negotiation.

17. No Waiver

The Parties agree that no failure to exercise a right or provision in this Agreement shall constitute a waiver of any provision or any other provision of this Agreement. Such failure shall not constitute a continuing waiver.

18. Severance

The Parties agree that, in the event any provision of the provisions of this Agreement is found to be unlawful or unenforceable, that / those provisions shall be deemed severed from the Agreement. The remainder of this Agreement shall be enforceable.

19. Law and Jurisdiction

- 19.1 This Agreement (including any amendments) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 19.2 Any dispute, controversy, or claim arising out of or relating to this Agreement (including any amendments) shall be referred to the jurisdiction of the courts of England and Wales.

IN WITNESS WHEREOF this Agreement was made the day and year first before written

SIGNED by
<<Name and Title of person signing for the
for and on behalf of <<Manufacturer's Name>>

In the presence of
<<Name & Address of Witness>>

SIGNED by
<<Name and Title of person signing for the
for and on behalf of <<Licensee's Name>>

In the presence of
<<Name & Address of Witness>>

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Product(s)

Product(s) Specification

<<Insert a full and detailed description of the product(s) covered by this Agreement>>

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Manufacturer's Trade Mark(s)

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<<Annex a copy of the Know-How and Technical Assistance Document>>]

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