

LICENCE FOR DESIGN AGREEMENT CHECKLIST

1. Is licence exclusive or non exclusive?
2. Period of agreement:
 - (a) up to full registration period,(16 years)
 - (b) subject to performance of publication of edition and sales
 - (c) on expiration originals to be returned
3. Use:
 - (a) advertising, publishing, merchandising, application
 - (b) upon.....
 - (c) no other use
4. Territory
5. Accreditation:
 - (a) upon each article?
 - (b) on all advertising?
6. Samples:
 - (a) date to be supplied
 - (b) place
 - (c) upon supply exhibit confidentiality warning
7. Fee:
 - (a) calculated upon:
 - (i) percentage of a given budget flat fee per hour for labour and materials
(if on commission)
 - (b) limit on total percentage or labour fee
 - (c) on cancellation
 - (d) payment schedule
8. Royalty:
 - (a) percentage - for each territory
 - (i) per number of articles sold within each territory
 - (b) accounting period
 - (c) basis of calculation
 - (i) licencees nett wholesale price less discounts,
 - (ii) credit to accounts for damage & short shipments & returns

- (d) records and statement
 - (i) accounting to be quarterly or annually ?
 - (ii) statement to include cheque
 - (iii) licensor to have access to records & books
 - (iv) frequency of statements
 - (v) review upon sales performance
 - (vi) interest upon arrears

9.

Termination:

- (a) unilateral, bilateral?
- (b) written notice
- (c) failure to perform
- (d) non payment
- (e) late payment after sufficient notice
- (f) bankruptcy, winding up, scheme of arrangement, judgment debt
- (g) quality of product
- (h) failure of registration
- (i) final account
- (j) return of all drafts, originals, records
- (k) alternatives to termination: alter to non exclusive licence
- (l) further fee
- (m) removal of accreditation
- (n) variation of terms
- (o) breach: limitation of remedies, account of profits or damages
- (p) reversion of all rights to licensor

10.

Disputes:

- (a) arbitration
- (b) appointment of arbitrator(s)

11.

Proper Law

12.

Design and Quality Protection:

- (a) no distortion or destruction
- (b) alteration on consent not unreasonably withheld
- (c) quality of manufacture

- (d) right of access and inspection upon written notice
- 13. Licencee's warranty to sell and distribute
- 14. Licencee's right to assign and sub licence:
with or without licensor's consent?
- 15. Licensor's warranty:
 - (a) original work
 - (b) Aust. citizen
 - (c) copyright or registerable design
- 16. Option for renewal:
 - (a) exercisable upon sales performance
 - (b) consent
 - (c) automatic
 - (d) notice
 - (e) period
 - (f) number of options (subject to reg. period)
 - (g) extend if reg period extended
- 17. Indemnity:
 - (a) manufacturer's liability
 - (b) defamation and obscenity
- 18. Registration of Design:
 - (a) licensor(ee) pays
 - (b) upon rejection- termination for want of transferable rights
 - (i) resubmission, at whose expense, how many times?
 - (ii) fee for resubmission
- 19. Infringement:
 - (a) right to proceed with licensor and/or licensee
 - (b) who pays costs?
 - (c) who retains solicitors
 - (d) warranty to assist in proceedings
- 20. Property:
 - (a) remains with licensor
 - (b) purchase by licensee, price?

21. Miscellaneous:
- (a) use of Trade Marks, registration and application
 - (b) Restraint of Trade in use of design after agreement
 - (c) Re application for registration where design modified
 - (d) Where design is for technological application:
 - (i) confidentiality of information
 - (ii) Licensor to be supplied plant and equipment for design development
 - (iii) involvement of licensor in continuing development of project