

AU-COMmfg04

Fashion or FMCG design and make up agreement

[ABC Pty Limited]

AND

[DEF Pty Limited]

Dated: [Date]

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This agreement is dated: [date]

It is made between:

[ABC Pty Limited], a company incorporated in Australia, ACN [number] whose registered office ■■■■■■■■ [■■■■■■■■■■] (■■■■■ “■■■■■”);

and

[DEF Pty Ltd], a company incorporated in Australia, ACN [number] whose registered office ■■■■■■■■■■ [■■■■■■■■■■] (■■■■■ “■■■■■”).

Background:

- A. The Client is a designer and trader in fashion products. The Manufacturer is a contract manufacturer [REDACTED].
- B. The Client and Manufacturer have agreed that production of [Super Sheila garment] range designed by the Client shall be undertaken by the [REDACTED].

It is now agreed as follows:

1. Definitions

In this agreement, the following words shall have the following meanings, ■ ■
■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ :

"Confidential Information" means all information about a party, including any information which may give a commercially competitive advantage to ■■■■■■■■■■
 . ■■■■■■■■■■ :

information about employees, their performance
and ■■■■■■■■■■■■■■■■■■■■,

data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ;

information about the Intellectual Property, the Know-how and all ■■■■■■■■■■■■■■■■■■■■■■

“Know-how”

“Licensed Material”

“Product”

“Detailed Specification”

“Standards”

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[illegible]

[Enter list of other docs and dates ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■].

4. Client's warranties

The Client warrants that:

4.1. it is either the owner of the entire right, title and interest in and to the Licensed Material or it has been granted a licence to those rights and that any such

4.2. use of the Licensed Material by the Manufacturer does not infringe ■ ■
■ ;

4.3. it has power to enter into this agreement [and has obtained ■■■■■■
■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■].

[illegible]

4.5. it has taken out a policy of insurance against product liability in a ■ ■ ■
 ■ ■ ■ ■ ■ ■ ■ ■ \$ [■ ■ ■ ■ ■ ■ ■ ■].

5. Manufacturer 's warranties

The Manufacturer warrants that:

[illegible][illegible]

- [illegible]

6. Scope of work

The Manufacturer shall:

- [illegible]

7. Representative liaison and Design reviews

- [illegible]

- 7.3. The representative of a party at a Design review meeting shall be a person with [REDACTED], [REDACTED].
- 7.4. Either party may change the authorised [REDACTED] [REDACTED].
- 7.5. If the Client fails to attend a Design review meeting after notice of [REDACTED] [REDACTED], [REDACTED].
- 7.6. So far as the Client suggests changes [REDACTED], [REDACTED].
- 7.7. After each change to any part of the Design or [REDACTED], [REDACTED] [7] [REDACTED].

8. Product design testing

- 8.1. So far as any Standard requires third parties to provide information or assistance, such information or assistance shall be provided by the third party.
- 8.2. All cost relating in any way to obtaining Standard verification and certification shall be borne by the applicant. The applicant shall also bear the cost of any audit or inspection carried out by the Standard body.
- 8.3. Test data and results shall be made available to the Standard body upon request.
- 8.4. Test data, reports and correspondence shall be retained by the applicant for a period of five years from the date of completion of the test.

11.2. at acceptance by the ■■■■■■■■■■■■■■■■■■■■■■ \$ [00 , 000]

[illegible]

12.5.3 a fixed sum of \$ [] , - .

13. Production price

13.1. When the Client has accepted the completion of the Design and orders the Product in a [100], .

13.2. The price payable by :
For the first [1000] \$ []
For the next [5000] \$ []
For each additional unit \$ [number]

13.3. The price shall be increased on the first [] .

13.4. If the Client requires delivery to some place other than [], .

14. Payment

All payments set out in this agreement shall be : [,] .

15. Production specification and materials coverage

15.1. The materials specification as finally recorded .

15.2. [scrap / trimmings / /] .

18. Taxes

- 18.1. This paragraph relates to all sales, transfer and other taxes or import duty ("Tax") imposed on the _____ , _____ , _____ , _____ . _____ .
- 18.2. Insofar as any Tax is recoverable or can _____ , _____ .
- 18.3. Tax shall be stated separately on the Manufacturers invoices, collected _____ , _____ .
- 18.4. The Manufacturer will indemnify the Client against the _____ .
- 18.5. Wherever any sum is chargeable by the Manufacturer to the Client for services based on _____ , _____ , _____ .
- 18.6. In any case where the Client is prohibited by law from making a payment to the Manufacturer without first withholding tax from that _____ , _____ , _____ .

19. Visitors

- 19.1. The Manufacturer agrees to host visits by customers of the Client or other people whom _____
_____, _____.
_____. _____
_____.

- 19.2. There shall be no more than [one] visit .
[]
[],
- 19.3. The Client undertakes to inform every visitor of

 ,

.
- 19.4. The Client must make

.

20. On site audits

- 20.1. On notice of at least [seven] days, the Client, its partners, financial supporters and its customers' representatives may attend at the [REDACTED].
- 20.2. On notice of at least [seven] days, the Client and/or any professional advisor, may attend at [REDACTED], [REDACTED], [REDACTED], [REDACTED].

OR

- [illegible]

AND

[illegible]

20.5. The provisions of this paragraph apply equally to any sub-
 .
 -
 .

20.6. If any discrepancy is found in _____, _____
 _____ [_____] _____.

21. Defective Product returned

These provisions apply in the _____
_____ :

[illegible]

```
21.1.1 the defect is reported to ■■■■■■■■■■ [ 12 ] ■■■■■■  
      ■■■■■■■■■■ ;
```

[illegible]

21.1.3 the defect results only from faulty manufacture;

21.2. The Manufacturer will refund the

[illegible]

22. Manufacturer's manufacturing warranty

[illegible]


24. Confidential Information

[illegible][illegible][illegible][illegible][illegible][illegible][illegible]

24.2. This paragraph does not apply to disclosure:

[illegible]

[illegible][illegible][illegible][illegible]

24.3. .

[illegible]

[illegible][illegible][illegible]


25.3.

[illegible][illegible]

28. Protection of Licensed Material

28.1. The Manufacturer agrees that it will:

[illegible][illegible][illegible]

28.5.  .

[illegible][illegible][illegible]

28.8.1 denigrate the Client;

[illegible]

29. Duration and termination

This agreement may be terminated:

29.1. by mutual agreement on an agreed date.

31. Publicity / Announcements

[illegible]

OR

31.2. Neither party shall:

31.2.1 make any public announcement; or

31.2.2 disclose any information; or

[illegible][illegible][illegible]

32. Assignment

[illegible]

OR

32.2.

[illegible][illegible]

[illegible]

34. Damages not adequate

35. Uncontrollable events

AND/OR

[illegible]

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Schedule 1: Detailed Specification and phases

Schedule 2 Standards

Schedule 3 List of setup tools and equipment

Schedule 4 Press release

Explanatory notes:

Fashion or FMCG design and make up agreement

General notes

- [illegible]

This document has been drawn to protect both parties. However, you may see that a few provisions specifically favour the client. Nevertheless, we have included provisions to protect the manufacturer too.

- 3.** This contract could be used by the manufacturer or the client, as an aide memoire for negotiations or ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■.

It is entirely a matter of your choice as to whatever provisions you leave in the agreement or edit, or delete. We have provided guidance in paragraph specific notes.

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■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

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Notes numbering refers to paragraph numbers.

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really ■■■■■■■■■■
■■■■■■■■■■.

[illegible]

There is no copyright in know-how.

[illegible]

We have not included a specific, extensive licence by the client to the manufacturer, but as a matter of law, the client will license its IP ■■■■
■■■■.

By all means use the find/replace function in your word processor to change them. If you do change a defined term, make sure it ■■■■■■■■■■
■■■■■■■■■■.

17. Transportation

[illegible]

We have left the mode of transport open. We strongly advise that you use an Incoterm because delivery, risks and costs are considered critical points in a sale contract cross the border. Parties to a contract are often unaware that there are different trading practices in their respective countries, for example FOB for an American

<https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020/>

[illegible]

Below is a basic summary ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■.

The seven rules defined by Incoterms 2020 for **EXW (Ex Works)** **Incoterms 2020** :

EXW – Ex Works

The seller makes the goods available at a named place of delivery. This can either be the seller's premises or any other place. This term places the maximum obligation on the buyer and minimum obligations on the seller. EXW is often used when making an initial quotation for the sale of goods without any costs included. The buyer pays all transportation costs and also bears the risks for bringing the goods to their final destination.

FCA – Free Carrier

CPT - Carriage Paid To

CIP – Carriage and Insurance Paid to

DAP – Delivered at Place

DPU – Delivered at Place Unloaded

DDP – Delivered Duty Paid

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.....

Rules for Sea and Inland Waterway Transport

The four rules defined by Incoterms 2020 for international
..... :

FAS – Free Alongside Ship

The seller is responsible for delivering goods to the buyer by placing the goods alongside the ship at the named port.
.....
..... -

FOB – Free on Board

The seller is responsible for loading the goods on board the vessel nominated by the buyer. . The seller must
.....
..... . .

CFR – Cost and Freight

The seller must deliver the goods to the buyer and pay the costs and freight to bring the goods to the port of destination
.....
..... .

CIF – Cost, Insurance and Freight

CIF is exactly the same as CFR except that the seller must pay for the insurance cover against
.....
..... .

18. Taxes

This paragraph is relevant only to export orders. A basis of taxation can change at the whim of a government. Because you can never know exactly what tax may be charged nor how it will be collected,
..... , ,
..... .
.....
..... .

19. Visitors

An important point of contract law also appears in this paragraph.

" ; .

If . . .

[illegible]

At the start, both sides know what will happen. In fact things

_____.

_____, _____,

_____.

_____?

_____.

[illegible]

34. Damages not adequate

In a contract dispute, the Court will usually look for a _____
_____. _____, _____
_____, _____.
_____.

35. Uncontrollable events

Often referred to as “force majeure”. We advise that you

36. Miscellaneous matters

[illegible]

These are just
 .

[illegible]

Dispute resolution

There are many ways to settle a dispute. But an action in court is the least desirable because it takes a long

.

.

"

".

.

Schedule 1 Detailed specification and phases

[illegible]

Schedule 2 Standards

[illegible]

Schedule 3 List of setup tools and equipment

[illegible]

Schedule 4 Press release

We have no comment.

Ends of notes