Food manufacturing agreement

[ABC Pty Ltd]

AND

[DEF Pty Ltd]

Dated: [Date]

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This	agreement is dated: [date]		
It is ı	made between:		
-		corporated in Australia, ACN [number] whose	
and			
•	•	corporated in Australia, ACN [number] whose	
Back	ground:		
A.	The Client is a food product and retail trade.	ct intermediary for made up sauces for restaurant	
B.		cturer have agreed that production of the "Hot recipes to which are owned by the Client, shall ■ ■	
It is ı	now agreed as follows:		
1.	Definitions		
	In this agreement, the following words shall have the following meanings, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■		
	"Affiliate"	means, with respect to any person, any human individual, or corporate body, or organisation of people acting together, who is able to Control its affairs or actions;	
	"Confidential Information"	means all information about a Party, including any information which may give a commercially competitive advantage to	
		information about employees, their performance	

	data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer ■ ■ ■ ■ , ■ ■ ■ , ■ ■ ■ ■ ;
	information about the Intellectual Property and ■
	information created or arising from this agreement;
	information, comment or implication published on
	data or information relating to recipes, processes, formulae, procedures, apparatus, specifications,
Control"	(including all derived terms), means, with respect to the relationship between two or more corporate bodies, the possession, directly or indirectly, of the power to direct the affairs or management of a corporate body, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise, including, without limitation,
Incoterm"	means latest version of pre-defined commercial rules of international trade published by \blacksquare
Intellectual Property"	means intellectual property of every sort, owned by or licensed to the Client, whether or not registered or registrable in any ;
	and including:
	patents, trade marks, unregistered marks, designs, copyrights, Know-how, creations and inventions, moral rights, together with all rights

	which are derived
"Know-how"	means scientific or technical information, and other procedures and ways of working and organising
"Recipe"	means Intellectual Property in the list of ingredients, their relative quantities, colours, sources and the
"Party"	means one of the parties to this agreement, $\blacksquare \blacksquare \blacksquare$
"Product"	means the "Hot Stuff" range of sauces created by the Client and all other
"Specification"	means the detailed specification set out $\blacksquare \blacksquare \blacksquare \blacksquare \blacksquare$
"Standards"	means the standards, protocols and regulatory requirements as EXECUTE EXECUTE EXE

2. Interpretation

This agreement shall be interpreted as \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare .

	.9
2.1.	A reference to a person includes a human individual, a corporate entity and any organisation
2.2.	In connection with any benefit given by this agreement, a reference to a Party includes ••••••••••••••••••••••••••••••••••••
2.3.	A reference to a person includes reference to that person's successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a

2.4.	A reference to a paragraph or schedule is to a paragraph or schedule to this agreement unless the context • • • • • • • • • • • • • • • • • • •
2.5.	The headings to the paragraphs and schedules to this agreement are inserted for convenience •••••••••••••••••••••••••••••••••••
2.6.	Any agreement by Party not to do or omit to do something includes an obligation not to allow some other
2.7.	A reference to the knowledge, information, belief or awareness of any person shall be deemed to include the knowledge, information,
2.8.	The words "without limitation" shall be deemed to follow any use of the words " ■ ■ ■ " ■ ■ ■ " ■ ■ ■ " ■ ■ ■ .
2.9.	All money sums mentioned in this agreement are calculated net of GST, which
2.10.	All dollar amounts referred to in this agreement ••••••••••••••••••••••••••••••••••••
2.11.	This agreement and its schedules / attachments are to be taken together so as to give effect to all of them as far as possible with each document helping to interpret the others. But if there is any conflict or
2.12.	This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or

3. Entire agreement

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3.2.	Conditions, warranties or other terms implied by
3.3.	Each Party acknowledges that, in entering into this agreement, ■ ■ ■
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3.4.	As an exception to the last
	[Enter list = = = = = = = = = = = = = = = = = = =
	====]
Man	nufacturer's warranties
The N	Manufacturer warrants that:
4.1.	it is a registered [what, if any?] and is certified to [ISO 9001] = = = = =
	28]
4.2.	it is not aware of anything within
4.3.	it has the necessary experience, all necessary
4.4.	it is not a party to any other
45	it has taken out a policy

5. Scope of work

4.

The Manufacturer shall:

5.1.	complete all necessary refinements to the Recipe.
5.2.	complete the testing and
5.3.	obtain whatever regulatory and other governmental approvals ■ ■ ■ ■ /
5.4.	the Client shall assist the Manufacturer
5.5.	manufacture the Product
Re	presentative liaison and Recipe design reviews
6.1.	With effect from today each of the parties will nominate a representative who will be
6.2.	[Periodically / once each month], the Manufacturer shall call a review =
6.3.	The representative of a Party at a Recipe review meeting shall be a person with
6.4.	So far as the Client suggests changes
6.5.	After each change to any part of the Recipe design
	•••

	6.6.	The materials specification as finally recorded • • • • • • • • • • • • • • • • • •
7.	Pro	duct testing and quality assurance
	7.1.	The Manufacturer shall be responsible for obtaining whatever regulatory and
	7.2.	The Client shall assist the Manufacturer
8.	Pro	duction specification and materials coverage
	8.1.	[scrap / trimmings / • • • • / • • •] • • • • • • • • • •
	8.2.	The Manufacturer shall from time to time obtain arms length, market prices for [scrap / trimmings / • • • • / • • •] • • • • • • • • • •
9.	Pac	kaging and delivery
	9.1.	Each Product shall
	9.2.	Delivery shall be made to ••• [••••/•••/••••] •••••5.
	9.3.	Delivery [to any location] • • • • • • • • • • • • • • • • • • •
	9.4.	If the Manufacturer is not able to deliver the Product within [30] = = = =

	9.5.	If the Manufacturer agrees with the Client to deliver on a particular ,
	OR	
	9.6.	Delivery time • • • • • • • • • • • • • • • • • • •
10.		ign, development and preliminary costs and ment
	10.1.	Wherever a payment obligation is specified in • • • • • • , • • • • • • • • • • • •
	10.2.	For development and testing, the Client shall pay the , , , , , , , , , , , , , , , , , , ,
	10.3.	After acceptance by the Client of the [
	10.4.	For all work before commencement of commercial production, the [1.5] [1.9]
	10.5.	In calculating the cost of materials:
		10.5.1 cost shall include all
		10.5.2 cost shall be referable • • • • • • • ;
		10.5.3 materials shall include bought-in food ingredients plus whatever spare ••••, ••••, •••••

10.6. In calculating the cost of labour:

		10.6.1	all production cost shall be included	,
		10.6.2	the design team • • • • • • • • • • • • • • • • • • •	
		10.6.3	a fixed sum of \$ [• • • •] • • • • •	
11.	Prod	ductio	n price	
	11.1.	The pri	ce payable by 	• • • • • • • • • • • • • • • • • • • •
		For the	e first [1000] ■ ■ ■ ■	\$[•••]
		For the	e next [5000] ■ ■ ■ ■	\$[■■■]
		For eac	ch additional unit	\$ [number]
	11.2.	The pri	ce shall be increased on the first \blacksquare	
			[].	•••••
	11.3.	If the C	lient requires delivery to some place	other than [■ ■ ■ ■], ■ ■ ■
		••]		[
12.	Trar	sport	ation	
	[There	e are ma	any ways and alternative deals possik	ole. • • • • • • • • • • •
].	••••		
	12.1.	The fol	lowing Incoterms = = = = = = = = = = = = = = = = = = =	• • • • • • • • • • • • • • • • • • • •
		12.1.1	EXW [named ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■	••••®
		12.1.2	FCA [named ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■	□■■■■]■■■® 2020

	12.1.3	CPT [named • • • • , • • • • • • • • •] • • • • ® 2020
	12.1.4	CIP [named • • • • , • • • • • • • • • •] • • • •
	12.1.5	DPU [named • • • • , • • • • • • • • •] • • • • ® 2020
	12.1.6	DAP [named = = = , = = = = = = =] = = = ® 2020
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	12.1.8	FAS [named = = = , = = = = = = =] = = = ® 2020
	12.1.9	FOB [named = = = , = = = = = =] = = = ® 2020
	12.1.10	OCFR [named = = = , = = = = = = =] = = = ® 2020
	12.1.11	CIF [named • • • • , • • • • • • • • •] • • • • ® 2020 .
12.2.	All right	ts, obligations, ••••••••••••••••••••••••••••••••••••
12.3.		otherwise agreed in this agreement so far
Taxe	es	

13.1. This paragraph relates to all sales, transfer and other taxes or import duty ("Tax") imposed on the 13.2. Insofar as any Tax is recoverable or can \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare

13.3.	Tax shall be stated separately on the Manufacturer's invoices, collected
13.4.	The Manufacturer will indemnify the Client against the
13.5.	Wherever any sum is chargeable by the Manufacturer to the Client for services based on
13.6.	In any case where the Client is prohibited by law from making a payment to the Manufacturer without first withholding tax from that
Visit	tors
	The Manufacturer agrees to host visits by customers of the Client or other people whom
14.1.	The Manufacturer agrees to host visits by customers of the Client or other people whom
14.1. 14.2.	The Manufacturer agrees to host visits by customers of the Client or other people whom

15. On site audits

15.1.	On notice of at least [seven] days, the Client's, its partners, financial supporters and its customers' representatives may attend at the
15.2.	On notice of at least [seven] days, the Client and/or any professional advisor, may attend at •••••••••••••••••••••••••••••••••••
OR	
15.3.	The Parties agree that within [number] days after the end of each period of [six] months, based on the financial year of the Manufacturer/
AND	
15.4.	The auditor shall be instructed not to disclose to
15.5.	The provisions of this paragraph apply equally to any sub-
15.6.	If any discrepancy is found in •••••, •••••

16.	Use of sub-contractors
	The Manufacturer shall not sub-

OR

The Manufacturer may	perform any or ■ ■	
		 :

16.1.	The Manufacturer first obtains the written consent of the Client to The Manufacturer first obtains the written consent of the Client to

OR

16.2.	The Manufacturer must first obtain the written consent	

16.3.	The Manufacturer

16.4.	The Manufacturer indemnifies the Client fully against any

16.5.	So far as work under this ••••••••••••

17. Confidential Information

17.1.	The Parties are aware that, as a result of this agreement, they will each have access to and be entrusted with Confidential Information of the other. All Confidential Information and other data,
	,
	,

	17.1.1	except as provided in this $\blacksquare \blacksquare \blacksquare$
	17.1.2	not use the Confidential Information in any way for itself
		;
	17.1.3	use its best endeavours to keep confidential (
	17.1.4	prevent disclosure of the Know-how or other
	17.1.5	disclose the Confidential Information only to those
	17.1.6	restrict visitors to its
17.2.	This pa	ragraph does not apply to disclosure:
	17.2.1	•••••••
	17.2.2	
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18. Protection of Intellectual Property

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19.4. OR 19.5. ------................. 19.6. ---------19.7. 19.8. [- - - - - - - - - 2] - - - - - - [- - - - - - - - 1 19.9. ...1]............................. **Duration and termination** This agreement may be terminated: 20.1. By mutual agreement on an agreed date. 20.2. -----

20.3.

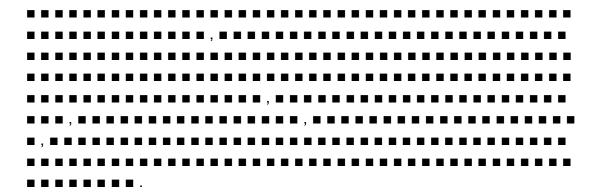
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21.4. The Manufacturer agrees that this provision is fair.
Publicity / Announcements
22.1.
OR
22.2. Neither Party shall:
22.2.1 make any public announcement; or
22.2.2 disclose any information; or
22.2.3
,
22.3.
Assignment
23.1.

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24.3.

25. Damages not adequate



26. Uncontrollable events

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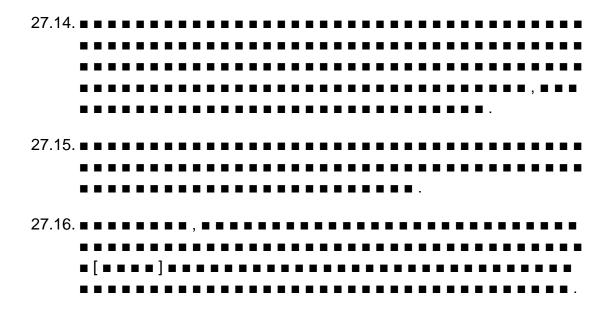
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OR

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Signed by / on behalf of the named Parties by their representatives who personally accept liability for the proper authorisation by their respective employer or principal to enter into this agreement

For, and on behalf of [ABC Pty Limited]

print name

For, and on behalf of [DEF Pty Limited]

print name

Schedule 1: Detailed specification

Schedule 2: Standards

Schedule 3: Packaging and labelling

Schedule 4: Press release

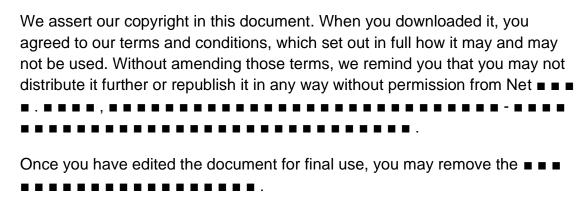
Schedule 5: Delivery locations

Explanatory notes:

Food manufacturing agreement

General notes:

1. Recognition of our copyright in this document



2. Document review service

Please contact our support team at support@netlawman.com.au for further information.

Paragraph specific notes:

Notes numbering refers to paragraph numbers.

1. Definitions

If your counter-party is in Australia, you may decide to remove or abbreviate the lists in "Intellectual Property". We have included them, first to make sure

your counter-party is under no illusions about IP, and second because some
There is no copyright in know-how.
We have not included a specific, extensive licence by the customer (you?) to the manufacturer, but as a matter of law, you will license your IP • • • • • • • • • • • • • • • • • •
If you do change any defined word, make sure it applies to every use ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
Interpretation
Leave these items in place unless there is a good reason to edit or remove. Each of these items has been carefully considered in the context of this agreement and has been included for a purpose.
Entire agreement
This paragraph prevents a party from later saying he was relying on some other document or web site or what was said. If other documents are to be relied on, let them be listed
Manufacturer's warranties
This paragraph covers a number of points which may be very important to you. It is not enough to see them in the agreement. You should also check any documents or
Scope of work
This paragraph is concerned with the basics of what the manufacturer is expected to do. It is intended to be a summary, around ••••••••••••••••••••••••••••••••••••
Representative liaison and Recipe design reviews
A framework of practical provisions covering the final design / recipe process.

3.

4.

5.

6.

7.

Product testing and quality assurance

	Edit as you require. State precise and essential matters here. Place the ■ ■ ■ ■ ■ ■ ■ ■ ■ 2 .
8.	Production specification and Materials coverage
	Replace our words by those better suited to your industry and the arrangements ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
9.	Packaging and delivery
	A menu covering alternative delivery requirements. Edit ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
10.	Design, development and preliminary costs and payment
	Product development is usually paid for based either on cost plus uplift or fee for reaching milestones. We have provided for payment based on cost plus uplift. This text provides for a single *** ****
11.	Production price
	A framework of practical business provisions. Whatever cost that will incur during the production of the products.
12.	Transportation
	This and the following paragraph are relevant only to ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
	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
	2020
	https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020/
	Incoterms are not legally binding, unless they are incorporated into an agreement by express reference to the specific Incoterm. We have worded Incoterms in this paragraph prescribed by the International

Below is a basic summary Below is a basic summ
The seven rules defined by Incoterms 2020 for \blacksquare
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
FCA – Free Carrier
The seller hands over the goods, cleared for export, into the disposal of the first carrier (named by the buyer) at the named place. The carrier can be anyone i.e. buyer, seller or third party. The passing of risk depends on the where the goods are delivered. If the goods are delivered at seller's • • • • • • • • • • • • • • • • • • •
CPT - Carriage Paid To
The seller pays for the carriage and delivers the goods to the buyer by handing them

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CIP - Carriage and Insurance Paid to

The seller pays for carriage and insurance to the named destination point,
DAP – Delivered at Place
The seller pays for carriage to the named place, except for costs related to import clearance,
•••.
DPU – Delivered at Place Unloaded
The seller pays for carriage, except for costs related to import clearance, and assumes all risks
DDP – Delivered Duty Paid
The seller is responsible for delivering the goods to the named place. The seller must pay all costs in bringing the goods • • • • • • • • • • • • • • • • • • •
Rules for Sea and Inland Waterway Transport
The four rules defined by Incoterms 2020 for international \blacksquare
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

	CIF – Cost, Insurance and Freight
	CIF is exactly the same as CFR except that the seller must pay for the insurance cover against
13.	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,
	•••••
14.	Visitors
	A framework of practical business provisions. Customers or suppliers will be allowed for a visit during the production and manufacturing process.
15.	On site audits
	A framework of practical business provisions. Edit as you require. We have
16.	Use of sub-contractors
	A framework of practical business provisions. Edit as you require. This
17.	Confidential Information
	We have given you a very full
18.	Protection of Intellectual Property

	Strong
19.	"Work made for hire"
	We have provided the
	In most Western countries, the originator of any "work" has a packet of rights. If he does not
	The USA is particularly is strong on this point. "Work made for hire" is the name given in the United
	•••••••
20.	Duration and termination
	It really does not matter how you want to end
	Note that in a very few words, we have
	Leave the insolvency provisions. As soon as there is any involvement of a court

21. Change of Control

	This draconian provision helps you to avoid the transfer of
22.	Publicity / Announcements
22.	We advise that publicity
	• • • • • • • • • • • • • • • • • • •
23.	Assignment
	Give careful thought to this. Consider the circumstances on both sides which may
24.	Indemnities by the Manufacturer
	These indemnities are reasonable. However, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
25.	Damages not adequate
	In a contract dispute, the Court will usually look for a simple financial ■ ■ ■
26.	Uncontrollable events
	Often referred to as "force majeure". We advise that you ■ ■ ■ ■ ■ ■ ■ ■ ■
27.	Miscellaneous matters
	A number of special points. We have identified each of these as important to

	II
These are just as valid in	
Dispute resolution	
There are many ways to settle a dispute. But an action in court is the least desirable because it takes a long	
	l J
Schedule 1 Detailed specification and phases	
The schedules may be "typed in" or be contained in some document attached	l. I
	I
Schedule 2 Standards	
These could be international engineering standards, or specification of food sources or methods	-
	I
Schedule 3 Packaging and labelling	
Specify fully.	

Schedule 4 Press release

We have no comment.

Schedule 5 List of delivery locations

Specify fully.

Ends of notes