

IE-COMmfg02

## **Development and manufacturing agreement: manufacturer version**

**[ABC Ltd]**

**AND**

**[DEF Ltd]**

**Dated: [Date]**

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**This agreement is dated: [date]**

**It is made between:**

[ABC Ltd], a company incorporated in Ireland under company registration number [number] and whose registered office [ ] ( [ ] “ [ ] ”);

**and**

[DEF Ltd], a company incorporated in Ireland under company registration number [number] and whose registered office [ ] ( [ ] “ [ ] ”)

### Background:

- [illegible]

**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





- 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 a party not to do or omit to do something includes an obligation not to allow some ■■■■■■■■■■ ■■■■■■■■■■.
- 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 VAT, which ■■■■■■■■■■.
- 2.10. 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

- 3.1. This agreement contains the entire agreement between the parties and supersedes all .
- 3.2. Conditions, warranties or other terms implied by statute or common law in any country, are excluded .
- 3.3. Each party acknowledges that, in entering into this agreement, it does not rely on any representation, warranty, information .
- 3.4. As an exception to the last previous sub paragraph, the parties do rely :

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

#### 4. Client's warranties

The Client warrants that:

- [illegible]

## 5. Manufacturer's warranties

The Manufacturer warrants that:

- 5.1. it is registered with [professional organisation, if any] and is certified to [ISO 9001] and agrees that loss of certification for a period of [28] days
- 5.2. it is not aware of anything within its reasonable control which might or will adversely affect
- 5.3. it has the necessary experience, all necessary licenses and permits, equipment, facilities and personnel to



- 5.4. it is not a party to any other agreement that would in any way conflict  
with, ■■■■■■ , ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■ .
- 5.5. it has taken out a policy of insurance against product liability in a ■■■  
■■■■■■■■■■■■■■ € [ ■■■■■■■■■■ ].

## 6. Scope of work

The Manufacturer shall:

- [illegible]

## 7. Representative liaison and design reviews

- 7.1. With effect from today each of the parties will nominate a representative who will be authorised to make decisions relating to the Product and who will be responsible for providing all [REDACTED].
- 7.2. [Periodically / once each month], the Manufacturer shall call a design review meeting in order to obtain the approval of the Client to design work to [REDACTED].



- 9.2. So far as any Standard requires third party verification of the Client's design, the Client shall be responsible for obtaining whatever regulatory and third party verification is required. The Client shall be responsible for obtaining whatever regulatory and third party verification is required.
- 9.3. The Client shall be responsible for obtaining whatever regulatory and third party verification is required. The Client shall be responsible for obtaining whatever regulatory and third party verification is required.
- 9.4. The Manufacturer shall assist the Client in obtaining whatever regulatory and third party verification is required. The Manufacturer shall assist the Client in obtaining whatever regulatory and third party verification is required.
- 9.5. If at any stage of design or production, a third party verification is required, the Client shall be responsible for obtaining whatever regulatory and third party verification is required. The Client shall be responsible for obtaining whatever regulatory and third party verification is required.
- 9.6. After receiving such notice, the Manufacturer will within [ 30 ] days of the date of receipt of such notice, provide the Client with a copy of the test data and results. After receiving such notice, the Manufacturer will within [ 30 ] days of the date of receipt of such notice, provide the Client with a copy of the test data and results.
- 9.7. All cost relating in any way to obtaining Standard verification and shall be borne by the Client. All cost relating in any way to obtaining Standard verification and shall be borne by the Client.
- 9.8. Test data and results shall be provided to the Client in a format acceptable to the Client. Test data and results shall be provided to the Client in a format acceptable to the Client.
- 9.9. Test data, reports and correspondence shall be provided to the Client in a format acceptable to the Client. Test data, reports and correspondence shall be provided to the Client in a format acceptable to the Client.

## 10. Production specification and materials coverage

- [illegible]





## 14. Payment and interest

- [illegible]

## 15. Packaging and delivery

- [illegible]

15.7. [Products are sent by courier. The  
 .....  
 .....  
 .....].

15.8. If the Manufacturer agrees with the Client to deliver on a particular day or at a particular time, the Manufacturer . . . . .  
 . . . . .  
 . . . . .  
 . . . . . , . . . . .  
 . . . . .  
 . . . . .  
 . . . . . - . . . . .

15.9. Time for delivery specified on the order, ■■■■■■ , ■■■■■■  
 ■■■■■■ . ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■  
 ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■

## 16. Transportation

[There are many ways and alternative deals possible. . . . .  
. . . . .  
. . . . . , . . . . .  
].

16.1. The following Incoterms .....  
.....:

16.1.1 EXW [named ■■■■ , ■■■■■■■■■■■■■■■■■■■■■] ■■■■®  
2020 .

[illegible]

**16.1.3 CPT [named ■■■■ , ■■■■■■■■■■■■■■■■] ■■■■® 2020**

16.1.4 CIP [named ■■■■ , ■■■■■■■■■■■■■■■■] ■■■■ ® 2020

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16.1.5 DPU [named ■■■■ , ■■■■■■■■■■■■■■■■■] ■■■■® 2020

.

[illegible]

16.1.7 DDP [named ■■■■ , ■■■■■■■■■■■■■■■■] ■■■■® 2020











## 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;

[illegible]

21.2.1 with both Products and .....  
.....;

### 21.2.2 securely wrapped;

21.2.3 including the delivery slip;

#### 21.2.4 at risk and cost the Manufacturer/the Client

21.3. If the Manufacturer agrees that it is liable, . . . . .  
 . . . . .  
 . . . . .

[illegible]

## 22. Manufacturers manufacturing warranty

[illegible]

- 22.2. The Manufacturer will use its best efforts to repair ■■■■■■■■■■  
 ■■■■■■■■■■  
 ■ [ ■■■■ ] ■■■■■■■■■■.
- 22.3. Non-warranty service pricing shall be negotiated ■■■■■■■■■■  
 ■■■■■■■■■■  
 ■■■■■■■■■■.
- 22.4. If either party shall become aware of ■■■■■■■■■■  
 ■■■■■■■■■■, ■■■■■■■■■■  
 ■■■■■■■■■■.

## 23. Manufacturer's Service provision

- 23.1. The Services are listed in Schedule 2. Before submitting the first order to the Manufacturer for ■■■■■■■■■■ [ 100 ] ■■■■■■■■■■  
 ■■■■, ■■■■■■■■■■, ■■■■■■■■■■  
 ■■ 2 ■■■■■■■■■■  
 ■■■■■■■■■■.
- 23.2. From the date of the first delivery of the Products to the Client, ■■■■  
 ■■■■■■■■■■ [ 24 ] ■■■■  
 ■■■■■■■■■■, ■■■■  
 ■■■■■■■■■■  
 .
- 23.3. The price payable by ■■■■■■■■■■  
 ■■■■■■■■■■.
- OR
- 23.4. The price payable by the ■■■■■■■■■■ [ ■■  
 ■■■■■■■■■■ 2 ]
- 23.5. If the service provision level set out in Schedule 2 is changed so that the cost to the ■■■■■■■■■■  
 ■■■■■■■■■■, ■■■■■■■■■■  
 ■■■■■■■■■■ [ 1 . 5 ]  
 ].

## 24. Limitation of liability

24.1. The law differs from one .

[illegible]

24.2.1 indirect or consequential loss; or

24.2.2 economic loss or other ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ , ■ ■ ■  
 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ; ■ ■ ■ ■

[illegible]

The above provisions apply even if such . . . . .

[illegible]

24.4. This paragraph (and any other paragraph which excludes or restricts the \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_).

24.5. The Manufacturer is not   
 :

**24.5.1 the Product**

[illegible][illegible]

## 25. Use of sub-contractors

[illegible]

OR

.....

..... - ..... :

[illegible]

*OR*

[illegible][illegible][illegible]

25.5.  $\frac{1}{2} \left( \frac{1}{2} + \frac{1}{2} \right) = 1$ ,  $\frac{1}{2} \left( \frac{1}{2} + \frac{1}{2} \right) = 1$ ,  $\frac{1}{2} \left( \frac{1}{2} + \frac{1}{2} \right) = 1$ .

## 26. Confidential Information

[illegible]







## 27. Existing Intellectual Property

**27.5.**

[illegible]

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

29.8.

.

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

**30.1.**

[illegible]

30.4.

,

.

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





[illegible][illegible][illegible]

**34.2.**

[illegible]











**Signed by/** on behalf of the name of the parties by their representative who personally accepts liability for the proper authorisation by their respective employer or principal to enter into this agreement.

For, and on behalf of [ABC Ltd]

print name

For, and on behalf of [DEF Ltd]

print name

## **Schedule 1: Detailed Specification and phases**

**■■■■ 2 : ■■■■ : ■■■■ ■■■■ ■■■■ ■■■■ ■■■■ ■■■■ ■■■■ ■■■■**

## **Schedule 3: Standards**



## **Schedule 4: Example purchase order**

## **Schedule 5: List of setup tools and equipment**

## **Schedule 6: Packaging and labelling**

## **Schedule 7: Press release**

## Explanatory notes:

## Development and manufacturing agreement: manufacturer version

## General notes

- [illegible]

[illegible][illegible]

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## Paragraph specific notes

Notes numbering refers to paragraph numbers.

## 1. Definitions

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

Please read the general notes sent along with ■ ■ ■ ■ ■ ■ ■ ■ .

Here we have provided a very full menu of items to cover in “Confidential Information”. Depending on your business, ■■■■■■■■■■  
■■■■■■■■.

There is no copyright in know-how.

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 ■■■■■■■■■■  
■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■.

Remember too, that when a word or phrase is defined, the defined meaning capitalised, takes precedence over the

## 2. 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.

■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■  
■ ■

### 3. Entire agreement

[illegible]

#### 4. Client's warranties

These provisions are important to the manufacturer. Take care ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

## 5. Manufacturer's warranties



By all means edit as you require.

Delivery of the product will be made once the product design is finalised and has gone through the quality ■■■■■■■■■■. ■■■■■■■■■■ ■■■■■■■■■■, ■■■■■■■■■■ ■■■■■■■■■■. ■■■■■■■■■■.

This and the following paragraph are relevant only to ■■■■■■. ■■■■  
■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■.

[illegible]

### 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. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods.

### **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 premises, the seller is responsible for loading the goods onto the carrier. If the goods are delivered at a named place, the seller is responsible for loading the goods onto the carrier. The carrier is responsible for transporting the goods to the named place of destination. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods.

### **CPT - Carriage Paid To**

The seller pays for the carriage and delivers the goods to the buyer by handing them over to the carrier. The carrier is responsible for transporting the goods to the named place of destination. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods.

### **CIP – Carriage and Insurance Paid to**

The seller pays for carriage and insurance to the named destination point, and delivers the goods to the carrier. The carrier is responsible for transporting the goods to the named place of destination. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods.

### **DAP – Delivered at Place**

The seller pays for carriage to the named place, except for costs related to import clearance, and delivers the goods to the buyer. The carrier is responsible for transporting the goods to the named place of destination. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods. The seller's obligation is to make the goods available at the named place of delivery. The buyer is responsible for loading, unloading, and transporting the goods.





### 23. Manufacturer's Service provision

[illegible]

Details of the service provision, if \_\_\_\_\_,  
\_\_\_\_\_.  
\_\_\_\_\_.

## 24. Limitation of liability

This is powerful protection for the manufacturer. It is usual to have some limit

## 25. Use of sub-contractors

A framework of practical business provisions.

.

## 26. Confidential Information

We have given you a very full . . . . .  
 . . . . .  
 . . . . .

## 27. Existing Intellectual Property

Depending on the value and extent of the \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_. \_\_\_\_\_.

## 28. New IP

This is another area on which much litigation is based. This paragraph and the next are options.

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_. \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_.

\_\_\_\_\_







## **Schedule 7: Press release**

We have no comment.

**End of notes**