# **Product assembly and finishing agreement**

[ABC Pty Ltd]

And

[DEF Pty Ltd]

Dated: [Date]

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This	agreement is dated: [date]	
It is	made between:	
numl		rated in South Africa under company registration stered •••••••••••••••••••••••••••••••••••
and		
numl		rated in South Africa under company registration stered
Back	kground:	
A.	conditioning and environme	anufacturer and merchant of high performance air ental controls. The Manufacturer
B.	_	ent have agreed that the Manufacturer shall provide complete the production of the "Environmental
It is	now agreed as follows:	
1.	Definitions	
	In this agreement, the follow	wing 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 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
information created or arising from this agreement;
information owned by a third party and in respect of which a party ••••••••••••••••••••••••••••••••••••
information, comment or implication published on
data or information relating to pre-clinical and clinical trial results, processes, formulae, procedures, designs, drawings, apparatus,
It does not include information that it is reasonably necessary to disclose to a customer or other person in the usual course
(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,

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"Control"

. . . . . . . . . "Incoterm" means latest version of pre-defined commercial rules of international trade published by ■ ■ ■ "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, software, domain names, discoveries, Know-how, creations and inventions, moral rights, together with all rights • concepts, ideas, designs, inventions, improvements, discoveries, data, processes, methods, techniques, know-how, and information, **.........** \_\_\_\_ "Know-how" means scientific or technical information, and other procedures and ways of working and organising = = = = = = = = = = = = = = = = = = "Licensed Material" means Intellectual Property of every sort in the Product, parts or drawings, and all other tangible and intangible things which are now or may in future be, = = = = = = = = = = = = = = = = "Party" means one of the parties to this agreement, ■ ■ . . . . . . . . . . . . . . . . . "Product" means [describe the product briefly] or any other product which supersedes it or is derived from it, together with any other goods ■ ■ ■ ■ ■ ■ ■

"Project"		means the work to be done under the $\blacksquare$ $\blacksquare$ $\blacksquare$ $\blacksquare$
"Spec	ification"	means the detailed specification set out $\blacksquare \blacksquare \blacksquare \blacksquare$
"Standards"		means the standards, protocols and regulatory requirements as <b>E E E E E E E E E E</b>
Inte	rpretation	
This a	greement shall be inte	erpreted as ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
2.1.	A reference to a person includes a human individual, a corporate entity and any organisation	
2.2.		y benefit given by this agreement, a reference to
2.3.	legal representatives	on includes reference to that person's successors, permitted assigns and any person to whom rights ansferred or pass as a
2.4.	•	graph or schedule is to a paragraph or schedule ess the context •••••••••••••••••••••••••••••••••••
2.5.	The headings to the prinserted for convenie	paragraphs and schedules to this agreement are
2.6.		arty not to do or omit to do something includes an

2.

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 " $\blacksquare$
2.9.	All money sums mentioned in this agreement are calculated net of VAT, which
2.10.	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
2.11.	This agreement is made only in the English language. If there is any ■
Enti	re agreement
<b>Enti</b> 3.1.	This agreement contains the entire
	This agreement contains the entire
3.1.	This agreement contains the entire
3.1.	This agreement contains the entire ••••••••••••••••••••••••••••••••••••
3.1.	This agreement contains the entire   Conditions, warranties or other terms implied by   Each Party acknowledges that, in entering into this agreement,
3.1.	This agreement contains the entire   Conditions, warranties or other terms implied by   Each Party acknowledges that, in entering into this agreement,   , , , , , , , , , , , , , , , , , ,
<ul><li>3.1.</li><li>3.2.</li><li>3.3.</li></ul>	This agreement contains the entire
<ul><li>3.1.</li><li>3.2.</li><li>3.3.</li></ul>	This agreement contains the entire   Conditions, warranties or other terms implied by   Each Party acknowledges that, in entering into this agreement,   As an exception to the last   ::

3.

## 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
4.2.	use of the Licensed Material
4.3.	it has power to enter
4.4.	it is not insolvent and knows of no circumstance which would

## 5. Manufacturer's warranties

The Manufacturer warrants that:

5.1.	
	28]
	,
5.2.	it is not aware of anything within
5.3.	it has the necessary experience, all necessary
5.4.	it is not a party to any other
5.5.	it has taken out a policy •••••• ••• ••••• •••••.

# 6. Scope of work

**7**.

The M	lanufacturer shall:
6.1.	complete the ••••••••••••••••••••••••••••••••
6.2.	on receipt of each purchase order in the style of
6.3.	use every effort to meet the
Rep	resentative liaison and design reviews
7.1.	With effect from today each of the parties will nominate a representative who will be • • • • • • • • • • • • • • • • • •
	•••••••
7.2.	[Periodically / once each month], the Manufacturer shall call a design
	•••••
7.3.	The representative of a Party at a design review meeting shall be a person with
7.4.	If the Client fails to attend a design review meeting after notice of ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
7.5.	So far as the Client suggests changes • • • • • • • • • • • • • • • • • • •
7.6.	After each change to any part of the design or $\blacksquare$

		•••••	• • • • • • • • • • • • • • • • • • • •
8.	Pro	duction price	
	8.1.	When the Client has accepted the completion the Product in a	<u> </u>
	8.2.	The price payable by <b>••••••</b> :	• • • • • • • • • • • • • • • • • • • •
		For the first [ 1000 ]   For the next [ 5000 ]   For each additional unit	••••[••••] ••••[••••] R [number]
	8.3.	The price shall be increased on the first $\blacksquare$	
	8.4.	If the Client requires delivery to some place ot	her than [ <b>= = =</b> ], <b>= =</b>
9.	Pac	kaging and delivery	
	9.1.	Each Product shall	
	9.2.	Immediately after testing each Product will be	_
	9.3.	Delivery shall be made to $\blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare = / \blacksquare$	/]
	OR		

The materials specification as finally recorded  $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$ 

7.7.

	9.5.	Deliver	y [to any location] • • • • • • • • • • • • • • • • • • •
	OR		
	9.6.	If the M	lanufacturer is not able to deliver the Product within [30] = = =
	9.7.		lanufacturer agrees with the Clients to deliver on a particular
	OR		
	9.8.	Deliver	y time = = = = = = = = = = = = = = = = = = =
10.	Trar	nsport	ation
	[There	e are ma	nny ways and alternative deals possible. ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
	].	■■■,□	
	10.1.	The fol	
		10.1.1	EXW [named ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ] ■ ■ ■ ® 2020 .
		10.1.2	FCA [named • • • • , • • • • • • • • • • ] • • • •
		10.1.3	CPT [named ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ] ■ ■ ■ ® 2020 .
		10.1.4	CIP [named • • • • , • • • • • • • • • ] • • • • ® 2020 .
		10.1.5	DPU [named • • • • , • • • • • • • • • • • ] • • • •

9.4.

	10.1.6	DAP [named • • • • , • • • • • • • • • ] • • • • ® 2020 .
	10.1.7	DDP [named • • • • , • • • • • • • • • ] • • • • ® 2020 .
	10.1.8	FAS [named • • • • , • • • • • • • • • • ] • • • •
	10.1.9	FOB [named • • • • , • • • • • • • • • • ] • • • •
	10.1.10	CFR [named = = = , = = = = = = = ] = = = ® 2020
	10.1.11	CIF [named • • • • , • • • • • • • • • ] • • • • ® 2020
10.2.	All right	ts, obligations,
10.3.	Unless	otherwise agreed in this agreement so far
	••••	
Taxe	es	
	This pa	aragraph relates to all sales, transfer and other taxes or import fax") imposed on the
	This pa	ragraph relates to all sales, transfer and other taxes or import fax") imposed on the
	This pa	aragraph relates to all sales, transfer and other taxes or import Tax") imposed on the
11.1.	This paduty ("T	ragraph relates to all sales, transfer and other taxes or import fax") imposed on the
11.1.	This paduty ("T	aragraph relates to all sales, transfer and other taxes or import fax") imposed on the same same same same same same same sam
11.1. 11.2.	This paduty ("T	all be stated separately on the Manufacturer's invoices, collected
11.1. 11.2.	This paduty ("T	aragraph relates to all sales, transfer and other taxes or import fax") imposed on the analysis as any Tax is recoverable or can analysis all be stated separately on the Manufacturer's invoices, collected

11.

	11.6.	n any case where the Client is prohibited by law from making a ayment to the Manufacturer without first withholding tax from that
		<u>,</u> ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
12.	Defe	tive Product returned
	These	provisions apply in the
	•••	
	12.1.	he Manufacturer will repair
		2.1.1 the defect is reported to <b></b>
		2.1.1 the defect is reported to <b>4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4</b>
		2.1.2 the Product is returned
		2.1.3 the defect results
	40.0	
	12.2.	So far = = = = = = , = = = = = = = = = = :
		2.2.1 with both Products and ••••••;
		2.2.2 securely wrapped;
		2.2.3 including the delivery slip;
		2.2.4 at risk = = = = = = = = = = = = = / = = = .
	40.0	
	12.3.	the Manufacturer agrees that it is liable, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

11.5. Wherever any sum is chargeable by the Manufacturer to the Client for

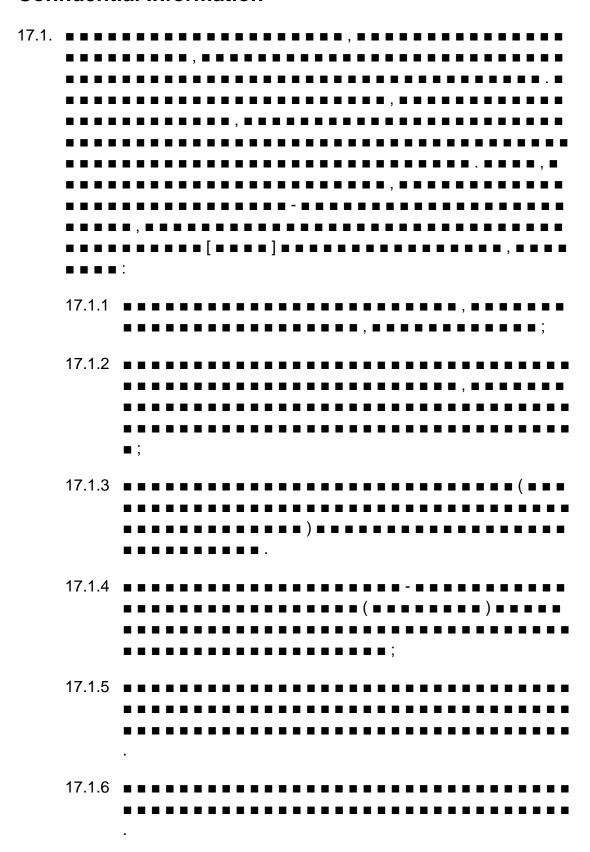
12.4.	If the Manufacturer repairs or replaces a Product, neither the Client ■ ■
Ons	site audits
On	site audits
13.1.	On notice of at least [seven] days, the Client, its partners, financial supporters and its customers' representatives may attend at the
13.2.	On notice of at least [seven] days, the Client and/or any professional advisor, may attend at any
OR	
13.3.	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	
13.4.	The auditor shall be instructed not to disclose to
13.5.	The provisions of this paragraph apply equally to any sub- ■ ■ ■ ■

13.

	13.6.	If any discrepancy is found in ••••• , •••• ••• .
14.	Risk	c and retention of title
	14.1.	Ownership of all products and materials sent by the Client to the
	14.2.	Despite a Product having been subjected to work by the Manufacturer and despite the
	14.3.	The Manufacturer shall hold all
	14.4.	The Manufacturer must store the Products (at no cost to • • • • • • • • • • • • • • • • • •
	14.5.	If the Client asks the Manufacturer to
	14.6.	If, when asked, the Manufacturer
15.	Man	ufacturer's manufacturing warranty
	15.1.	The Manufacturer warrants that for period of [24] months from date of

	15.2.	The Manufacturer will use its best efforts to repair defective
	15.3.	If either Party shall become aware of
16.	Use	of sub-contractors
	The M	Nanufacturer shall not sub-
	OR	
	The M	Manufacturer may perform any or
	16.1.	The Manufacturer first obtains the written consent of the Client to
	OR	
		The Manufacturer must first obtain the written consent
	16.3.	The Manufacturer • • • • • • • • • • • • • • • • • •
	16.4.	The Manufacturer indemnifies the Client fully against any
	16.5.	

### 17. Confidential Information



17.2. This paragraph does not apply to disclosure:

	17.2.1						 	•	•			• •	•	• •	•					•	
	17.2.2		• • •																		•
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17.6.							 						•								
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18.	<b>Inventions</b>	already	made
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18.2.

18.3.

18.4.

18.5.

### 19. Protection of Intellectual Property

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19.1.

19.2.

19.3.

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### 20. Duration and termination

This agreement may be terminated:

20.1. By mutual agreement on an agreed date.

20.3.

20.4.

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# 21. Change of Control

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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.

21.3.

22.

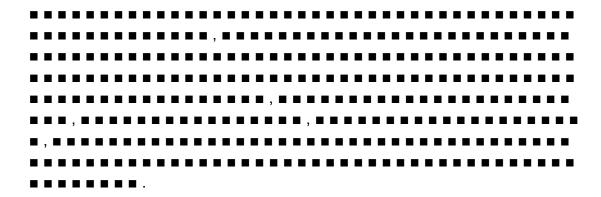
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## 25. Damages not adequate



### 26. Uncontrollable events

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#### AND/OR

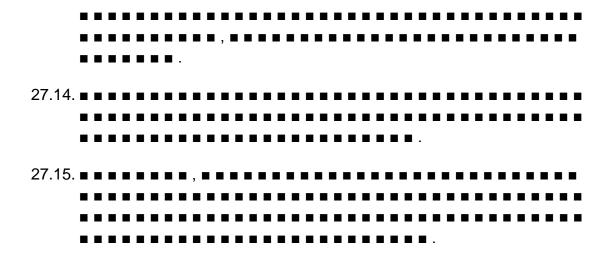
26.2.	 	 	 		 	••
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OR

26.3.

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:	6.7. [30]	
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<b>27.</b>	liscellaneous matters	
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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 and phases**

## **Schedule 2: Standards**

# **Schedule 3: Example purchase order**

# **Schedule 4: Delivery locations**

## **Schedule 5: Press release**

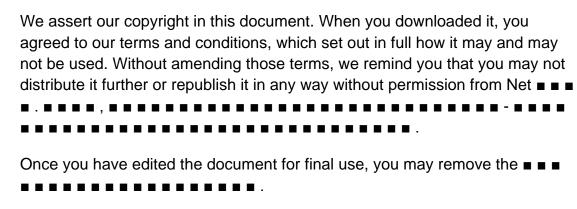
# Schedule 6: Packaging and labelling

## **Explanatory notes:**

#### Product assembly and finishing agreement

### **General notes:**

#### 1. Recognition of our copyright in this document



#### 2. Document review service

If you would like our legal team to check your edited version, we

Please contact our support team at <a href="mailto:support@netlawman.co.za">support@netlawman.co.za</a> for further information.

## 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,

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

because some	
make sure your counter-party is under no illusions about IP, and second	

There is no copyright in know-how.

#### 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

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

#### 4. Client's warranties

If you are dealing with a company and do not know who has authority to do what, leave

#### 5. Manufacturer's warranties

This paragraph covers a number of points which may be very important to the customer. It is not enough to see them in the agreement. You should also check each

#### 6. Scope of work

This paragraph is concerned with the basics of what each side is expected to do and not do. It is intended to be a summary, around which the rest of the agreement is detailed. However, the reference to the schedule is very important. That is what the agreement is about, so do leave it in place. It is

	equally important that the schedule sets
7.	Representative liaison and design reviews
	A framework of practical business provisions. Edit as you require. ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
8.	Production price
	We have given a proposal, but the detail is for you to enter. If you prefer, or the details are complicated, refer to a schedule and place it in that part of the agreement,
9.	Packaging and delivery
	Delivery of the product will be made once the product design is finalised and has gone through the quality assurance procedure. When it is ready for dispatch,
10.	Transportation
	This and the following paragraph are relevant only to export orders. By all ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
	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 company may have a different meaning to FOB for a South African trader. This can lead to misunderstanding and, in the worst scenario, costly litigation. Incoterms set
	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
The seven rules defined by Incoterms 2020 for $\blacksquare$
<b>EXW</b> – 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,
DAD Delivered at Diese
DAP – Delivered at Place
The seller pays for carriage to the named place, except for costs related to import clearance,
•••
<b>DPU</b> – 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
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 .  $\blacksquare$   $\blacksquare$   $\blacksquare$  ,  $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$ 

	CIF – Cost, Insurance and Freight
	CIF is exactly the same as CFR except that the seller must pay for the insurance cover against
11.	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,
12.	Defective Product returned
	We have provided a sound arrangement but this is a commercial provision, ■
13.	On site audits
	A framework of practical business provisions. Edit as you require. We have ■
14.	Risk and retention of title
	This important paragraph reflects current law. The paragraph is designed to protect you in
	It is likely that the manufacturer may feel it is he who needs this protection for finished goods returned to you, made up and
	,
15.	Manufacturer's manufacturing warranty
	A framework of practical business provisions. The last sub-paragraph refers to product liability. It is very difficult to plan in advance for a

16.	Use of sub-contractors
	A framework of practical business provisions.
17.	Confidential Information
	We have given you a very full
18.	Inventions already made
	We have no idea what is your product or how important is the IP element of its
	.,
19.	Protection of Intellectual Property
	If you fail to protect your IP, someone will steal it. They may just steal it "at the edges",
00	
20.	Duration and termination
	It really does not matter how you want to end
	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
	We advise that publicity • • • • • • • • • • • • • • • • • • •
23.	Assignment
	Give careful thought to this. Consider the circumstances on both sides which may
24.	Indemnity by the Manufacturer
	These mutual indemnities are reasonable. However,
	<b>.</b>
25.	Damages not adequate
	In a contract dispute, the Court will usually look for a
26.	Uncontrollable events
_0.	
	Often referred to as "force majeure". We advise that you

**Miscellaneous matters** 

**27**.

A number of special points. We have identified each of these as important to
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
Schedule 1 Detailed specification and phases
The schedules may be "typed in" or be contained in some document attached
Schedule 2 Standards
These could be international engineering standards, or specification of cloth to be used,

Schedule 3 Example purchase order

This schedule is worth including in $\blacksquare \blacksquare \blacksquare$	

### Schedule 4 List of delivery locations

Specify fully.

#### Schedule 5 Press release

We have no comment.

## Schedule 6 Packaging and labelling

Specify fully.

## **Ends of notes**