IP Licence Agreement

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**THIS AGREEMENT** is dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BETWEEN:**

**(1)** **[LICENSOR’S NAME],** a company registered in [Country], with commercial licence number [●] and having its registered office at [●] (“**Licensor**”); and

**(2)** **[LICENSEE’S NAME]**, a company registered in [Country], with commercial licence number [●] and having its registered office at [●] (“**Licensee**”),

(collectively the “**Parties**”, and each a “**Party**” to this Agreement).

**RECITALS**

1. The Licensor wishes to grant, and the Licensee wishes to procure, a licence to use the Licensed IPR subject to and in accordance with this Agreement.

**IT IS HEREBY AGREED** as follows:

* 1. DEFINITIONS
     1. The defined terms in this Agreement shall have the meaning ascribed to them in **Schedule 1 (Definitions)**.
     2. In this Agreement the rules of interpretation set out in **Schedule 1 (Definitions)** shall apply.
  2. TERM
     1. This Agreement shall commence on the Agreement Date and, unless terminated in accordance with Clause ‎11, shall remain in full force and effect for the duration of the Term.
     2. Subject to Clause ‎2.1, at the end of the Initial Term, or the then current Extended Term, as applicable, this Agreement shall automatically extend for an Extended Term.
  3. LICENCE
     1. Subject to Clauses ‎3.2, and in consideration of the payment of the Licence Fees set out in **Schedule 3 (Licence Fees)**, the Licensor hereby grants (or shall procure the granting) to the Licensee a licence to use the Licensed IPR.
     2. The Licensee acknowledges and agrees that the Licensor grants the rights under Clause ‎3.1 are strictly subject to the following terms and conditions:
        1. the grant of the licence to use the Licensed IPR shall be on an [non] / [exclusive] and non-transferable basis;
        2. the Licensee shall use the Licensed IPR solely for the Authorised Purpose in the Territory and no other purpose, except with the prior written approval of the Licensor;
        3. the Licensee shall not use or otherwise exploit the Licensed IPR, or grant or permit any Third Party the right to do so, except with the prior written approval of the Licensor or as permitted by this Agreement;
        4. the Licensee shall comply with all guidelines, standards and directions relating to the Licensed IPR as notified in writing by the Licensor from time to time
        5. the Licensee shall comply with all applicable laws, regulations, industry standards and codes of practice relating to the use of the Licensed IPR;
        6. the Licensee shall not make or permit any Third Party to make any modification to any of the Licensed IPR without the prior express written approval of Licensor;
        7. if and to the extent required, the Licensee shall obtain at its own expense all governmental licenses, permits and consents necessary to use the Licensed IPR as contemplated under this Agreement;
        8. the Licensee shall comply with all Applicable Laws and practices in force or used in the Territory to safeguard the Licensor’s rights in the Licensed IPR;
        9. the Licensee shall not, directly or indirectly, do or omit to do anything that may adversely impact on or diminish the rights of the Licensor in the Licensed IPR;
        10. the Licensee acknowledges and agrees that the use of the Licensed IPR is subject to all Applicable Laws in the Territory and that the Licensee shall at all times be solely liable for such due observance and performance; and

**[DN: Include such other Licence Conditions as may be applicable].**

* + 1. No further right or licence to use the Licensed IPR is granted by the Licensor to the Licensee by this Agreement and the Licensor reserves all rights not specifically granted to the Licensee, including all rights beyond the Term.
  1. WARRANTIES
     1. Each Party warrants and represents to the other Party that:
        1. it is duly incorporated and has the legal capacity to enter into this Agreement; and
        2. it shall obtain and maintain in force and shall at all times comply with all necessary Approvals as required under this Agreement and under Applicable Law;
     2. [The Licensor further warrants and represents to the Licensee that, as at the Agreement Date,
        1. [Licensee Friendly] no Claims have been made or threatened against the Licensor in respect of the ownership and/or use of the Licensed IPR;
        2. [Licensee Friendly] [it has all necessary rights as are required to grant the licence as set out in this Agreement;]
        3. [Licensee Friendly] [use of the Licensed IPR by the Licensee strictly in accordance with this Agreement will not breach the IPR of any Third Party;]
        4. [Licensee Friendly] [the Licensed IPR is subsisting and is not invalid or unenforceable, in whole or in part];
        5. [Licensee Friendly] [the Licensor has not previously assigned, transferred, conveyed or otherwise encumbered any right, title or interest in the Licensed IPR which conflicts or fetters the licence being granted to the Licensee;]
        6. [Licensor Friendly] [so far as it is aware, exploitation of the Licensed IPR by the Licensee will not infringe the rights of any Third Party]; and
        7. [Licensor Friendly] [To the maximum extent permitted by Applicable Law, the Licensor excludes any and all warranties in relation to the Licensed IPR and the Licensee acknowledges and agrees that it take the Licensed IPR on an “as is” basis.]

**[DN: Carefully consider your position as Licensor and / Licensee and amend position accordingly.]**

* 1. FURTHER ASSURANCE
     1. Each Party shall, at the request and cost of the other Party, do or procure the doing of all such things (including execution of documents), as the other Party may reasonably require to give it the full benefit of having entered into this Agreement.
  2. REPORTING
     1. At the end of each calendar month during the Term, the Licensee shall submit to the Licensor a written statement recording:
        1. [details of the use of the Licensed IPR, including a statement of compliance with the terms of this Agreement]
        2. the calculation of Licence Fees payable;
        3. the amount of Licence Fees due and payable; and
        4. [and the amount of VAT, any tax-deductible or due to be deducted from such figure].

**[DN: Carefully consider what reports you require, and are commercially reasonable based upon that which is being licensed]**

* 1. GENERAL PAYMENT TERMS
     1. The Licensee shall pay the Licence Fees in accordance with **Schedule 3 (Licence Fees)**.
     2. The Licence Fees shall be paid in the Currency, and unless otherwise agreed, made by electronic transfer to the Licensor's bank account as notified to the Licensee from time to time.
     3. Each Party shall be responsible for paying its own bank charges.
  2. TAXES
     1. The Licensee shall give all notices and pay all taxes where applicable (including withholding tax), duties and fees that is required of it by Applicable Laws in connection with the licence of the Licensed IPR under this Agreement.
  3. IPR INFRINGEMENT
     1. If the Licensee learns of any matter which could constitute an infringement or threatened infringement of the Licensed IPR, or that the Licensed IPR infringes the IPR of a Third Party the Licensee shall:
        1. immediately notify the Licensor giving full particulars of such circumstances; and
        2. make no comment, admission or disclosures to any Third Party in respect of such circumstances.
     2. The Licensor shall decide what action to take in respect of any alleged or actual infringement of the Licensed IPR and/or any Claim by a Third Party in respect of the Licensed IPR and have the conduct of all related proceedings.
     3. The Licensor shall be entitled to receive and retain all amounts awarded or secured by way of settlement or damages, profits or otherwise in connection with any infringement proceedings brought by it relating to the Licensed IPR.
     4. [The Licensor shall indemnify the Licensee for any Losses the Licensee, if relevant) incurs as a result of the Licensed IPR infringing Third Party IPR which the Licensor does not otherwise address.]
  4. LIABILITY
     1. Nothing in this Agreement shall exclude or limit either Party’s liability to the other in connection with:
        1. death or personal injury caused by negligence or wilful or reckless misconduct of that Party;
        2. any fraud or fraudulent misrepresentation of that Party;
        3. any gross negligence or wilful misconduct of that Party;
        4. any liability which cannot be lawfully excluded by that Party; [and/or]
        5. a breach of Clauses ‎3.2 or ‎15.3; and/or
        6. [any liability arising under Clause ‎9.4].
     2. Subject to Clause ‎10.1, neither Party shall be liable for any Indirect Loss under or in connection with this Agreement.
     3. Subject to Clause ‎10.1, the Licensor’s total liability under this Agreement shall be limited to [the amount of Licence Fees actually received by the Licensor].
  5. TERMINATION
     1. The Licensor may terminate this Agreement:
        1. at any time without cause by serving a Termination Notice giving not less than [20] Business Days’ notice; or
        2. where the Licensee has not paid the Licence Fees as required under this Agreement and such non payment is not the subject of a bona fide Dispute.
     2. Either Party may serve a Termination Notice to terminate this Agreement with immediate effect if the other Party:
        1. commits one or more breaches of this Agreement that is/are not remedied within [20] Business Days’ of receipt of a remedial notice to do so;
        2. commits a material breach of this Agreement;
        3. experiences, or is reasonably likely to experience, an insolvency event or similar event; or
        4. ceases to trade or threatens to cease trading.
  6. CONSEQUENCES OF TERMINATION
     1. Upon receipt of a Termination Notice, the Parties shall immediately:
        1. take all possible action to mitigate any liabilities which may arise as a result of such termination; and
        2. return all Confidential Information to the Party that disclosed such Confidential Information.
     2. Upon termination of this Agreement howsoever arising the Licensee shall:
        1. immediately cease to exercise the rights granted under Clause ‎3 or use the Licensed IPR in any form or manner;
        2. within [10 Business Days] deregister [at its cost] any registered authorised user agreements within the Territory;
        3. within [10 Business Days] deliver (at the Licensee's cost) at the election of the Licensor delete or return to the Licensor:
           1. all copies of the Licensed IPR;
           2. any articles, materials or documents in its possession or under its control which incorporate, reproduce or display any aspects of the Licensed IPR; or
           3. where a deletion is not practicable, destroy all stationery advertising material, and documents in the possession of the Licensee to which the Licensed IPR has been applied to; and
           4. provide the Licensor with satisfactory evidence of their destruction; and
           5. execute such documents as may be requested by the Licensor in order to assign or transfer any interest that the Licensee may then have in any of the Licensed IPR.
     3. Subject to this Clause ‎12, the Licensee shall do nothing after the termination of this Agreement which might lead any person to believe that the Licensee is still licensed in relation to the Licensed IPR.
     4. Notwithstanding any other provision of this Agreement, where either Party terminates this Agreement then the Licensee shall pay to the Licensor all outstanding Licence Fees under this Agreement up to and including the termination date.
     5. The termination of this Agreement shall be without prejudice to the rights and remedies of either Party which may have accrued under this Agreement or Applicable Law up to the date of termination thereof.
     6. The termination of this Agreement shall not limit the survivability of other provisions, which by their nature, are likewise intended to survive the termination of this Agreement.
  7. REGISTRATION OF LICENCE
     1. Where required and applicable, the Parties shall cooperate to register an authorised user agreement with government authorities within the Territory in support of this Agreement to:
        1. prove the authority by the Licensee to use of the Licensed IPR in accordance with the terms of this Agreement; and
        2. permit the Licensee to obtain and/or maintain valid authorisations relating to their use of the Licensed IPR in the Territory.

**[DN: We recommend keeping this provision. Registration of IPR licences is required in certain jurisdictions for them to have effect against third parties e.g. the UAE.]**

* 1. REPUTATION
     1. Neither Party shall do anything, or engage in any activity, which is likely to adversely affect, or damage, the other Party’s good name and/or reputation.
  2. GENERAL PROVISIONS
     1. **Language:** This Agreement is drawn up in the English language and the English language version of this Agreement shall always prevail over any translation. This Agreement shall be construed, interpreted and administered in English.
     2. **Cumulative Rights:** Unless otherwise stated, the rights and remedies of a Party under this Agreement are cumulative and do not exclude any other right or remedy provided by Applicable Law.
     3. **Confidential Information:** Neither Party will divulge or disclose any Confidential Information to any third party without prior express consent in writing from the other Party.
     4. **Entire Agreement:** This Agreement constitutes the entire agreement of the Parties relating to the provision of the Licensed IPR, to the exclusion of all other terms and conditions, and any prior written or oral agreement between them.
     5. **Novation & Assignment:** The Licensee shall not assign, novate, or otherwise transfer all or any of its rights, benefits or obligations under this Agreement without the prior written approval of the Licensor.
     6. **Variation:** No variation of this Agreement shall be effective unless in writing and signed by each Party’s Authorised Representative.
     7. **Specific Performance:** Nothing in this Agreement prevents a Party from seeking interim or interlocutory relief to prevent a breach of, and to compel specific performance by the other Party of, this Agreement.
     8. **Waiver:** No failure to exercise, nor any delay in exercising, any right, power or remedy under this Agreement shall operate or be deemed a waiver of the same. Waivers must always be given in writing.
     9. **Illegality:** If any provision of this Agreement is determined to be invalid, illegal or void by any court or administrative body of competent jurisdiction then the rest of this Agreement shall still remain in full force and effect.
     10. **Relationship:** Nothing in this Agreement shall be construed to make either Party an agent, employee, franchisee, joint venturer or legal representative of the other Party.
     11. **Third Party Rights:** Except where expressly contemplated, this Agreement does not create any rights which are enforceable by any person who is not a Party to this Agreement.
     12. **Notices:** Any notice or other communication given under or in connection with this Agreement shall be in writing and shall be delivered by
         1. hand to the Party due to receive it at the Party’s address; or
         2. email to the Party due to receive it at the Party’s email address.

The Parties’ physical addresses for the purpose of this Agreement are as set out in the recitals, or as may be notified in writing from time to time.

* + 1. **Governing Law:** This Agreement is governed by, and shall be construed in accordance with, the laws of the [Territory]. The Parties irrevocably submit to the exclusive jurisdiction of the courts of the [Territory] in relation to any Disputes.

**EXECUTION**

**EXECUTED** as an Agreement on the date and year first above written.

|  |  |
| --- | --- |
| **Signed** for and on behalf of | |
| **[LICENSOR’S NAME]**  as its duly authorised representative: | |
|  | |
|  | Signature of Authorised Representative |
|  | |
|  | Name & title of Authorised Representative (print) |

|  |  |
| --- | --- |
| **Signed** for and on behalf of | |
| **[LICENSEE’S NAME]**  as its duly authorised representative: | |
|  | |
|  | Signature of Authorised Representative |
|  | |
|  | Name & title of Authorised Representative (print) |

SCHEDULE 1 | DEFINITIONS

* 1. DEFINITIONS
     1. In this Agreement (unless the context otherwise requires), the following words and phrases shall have the following meaning:

|  |  |
| --- | --- |
| **Affiliate** | means any entity that is Controlled by a Party or under common Control of that Party; |
| **Agreement** | means the terms and conditions of this agreement and the Schedules hereto; |
| **Agreement Date** | means the date stated at the top of page 3 of this Agreement; |
| **Applicable Law** | means all national, state, local and municipal legislation, regulations, statutes, by-laws, Approvals and/or other laws and any other instrument or direction from officials having the force of law as may be issued and in force from time to time (and any amendment or subordinate provisions thereto) relating to or connected with the activities contemplated under this Agreement, wherever so located and/or performed; |
| **Approvals** | means any licenses, permits, consents, approvals and authorisations (statutory, regulatory or otherwise) that a Party may require (whether to comply with Applicable Law or otherwise) to perform its obligations under this Agreement; |
| **Authorised Purposes** | means the authorised purposes for which the Licensee is permitted to use the Licensed IPR, details of which are set out in **Schedule 2 (Licensed IPR)**; |
| **Authorised Representative(s)** | means the duly authorised representative(s) of the Parties who has/have the authority to agree variations under this Agreement; |
| **Business Day** | means any day other than a weekend, official public holiday or a day when banks are closed for business in Territory; |
| **Claim** | means any allegation, debt, judgment, cause of action, action, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise asserted by any person at any time; |
| **Confidential Information** | means this Agreement and all information of any nature which a Party may have or acquire before or after the Agreement Date, however conveyed (whether in writing, verbally or by any other means), which relates to the business, price lists, Personnel, suppliers and customers of a Party and its Affiliates (whether or not designated as Confidential Information by the disclosing Party), and all information designated as confidential or which ought reasonably to be considered confidential; |
| **Control** | means:  (1) the ownership or control (whether directly or indirectly) of more than 50% of the voting share capital of the relevant entity; or  (2) the ability to direct the casting of more than 50% of the votes exercisable at general meetings of the relevant entity on all, or substantially all, matters; or  (3) the right to appoint or remove directors of the relevant entity holding a majority of the voting rights at meetings of the board on all, or substantially all, matters;  and the terms “Controls”, “Controlled” or “Controlling” shall have the equivalent grammatical meaning; |
| **Currency** | means [United States Dollars]; |
| **Dispute** | means any dispute between the Parties under or in connection with this Agreement; |
| **Extended Term** | means the period of [12] months from the end of the Initial Term or then current Extended Term; |
| **Indirect Loss** | means, in relation to a breach of this Agreement, any loss of production, loss of use, loss of revenue, loss of profit, loss of contract, loss of goodwill, or any indirect, consequential or special loss; |
| **Initial Term** | means the period of [12] months from the Commencement Date; |
| **Intellectual Property Rights or IPR** | means patents, inventions (whether patentable or not), copyrights, moral rights, design rights, trade-marks, trade names, business names, service marks, brands, logos, service names, trade secrets, know-how, domain names, database rights and any other intellectual property or proprietary rights (whether registered or unregistered, and whether in electronic form or otherwise) including rights in computer software, and all registrations and applications to register any of the aforesaid items, rights in the nature of the aforesaid items in any country or jurisdiction, any rights in the nature of unfair competition rights, and rights to sue for passing off; |
| **Licence Fees** | means the amounts payable by Licensee to the Licensor for the licensing of the Licensed IPR as specified in **Schedule 3 (Licence Fees)**; |
| **Licensed IPR** | means the IPR as set out in **Schedule 2 (Licensed IPR)**; |
| **Loss or Losses** | means any loss, expense, claim, penalty expenses or equivalent which is suffered, including Indirect Loss, as may arise as a result of one Party’s actions or inactions in respect of their obligations under this Agreement; |
| **Term** | means the Initial Term and the Extended Term(s) cumulatively; |
| **Termination Notice** | means a notice to terminate this Agreement issued by a Party in accordance with Clause ‎11 of this Agreement; |
| **Territory** | means [Jurisdiction]; |
| **Third Party** | means a Person who is not a Party to this Agreement; and |
| **VAT** | means value-added tax or any other sales tax or any other taxes similar thereto which may be payable in relation to the licence of the Licensed IPR. |

* 1. INTERPRETATION
     1. In this Agreement, the following rules of interpretation shall apply:
        1. references to schedules and annexures are (unless otherwise provided) references to the schedules and annexures of this Agreement; and
        2. any reference to a Party shall be construed to include its successors and permitted assigns or transferees.

SCHEDULE 2 | LICENSED IPR

* 1. DEFINITIONS
     1. The defined terms of the Agreement shall apply to this **Schedule 2 (Licensed IPR)**.
     2. The following additional defined terms shall apply to this **Schedule 2 (Licensed IPR)**.

[●] means [●]; and

[●] means [●].

* 1. REGISTER OF LICENSED IPR

|  |  |  |
| --- | --- | --- |
| **No.** | **IPR Description** | **Authorised Purposes** |
| 1. | [●] | [●] |
| 2. | [●] | [●] |
| 3. | [●] | [●] |
| 4. | [●] | [●] |

SCHEDULE 3 | LICENCE FEES

* 1. DEFINITIONS
     1. The defined terms of the Agreement shall apply to this **Schedule 3 (Licence Fees)**.
     2. The following additional defined terms shall apply to this **Schedule 3 (Licence Fees)**.

[●] means [●]; and

[●] means [●].

* 1. LICENCE FEES
     1. [●].