

Agreement of License between Trade Mark Owner and a Manufacturer

It is a process of creating and managing contracts between the owner of a brand and a company or individual who wants to use the brand in association with a product, for an agreed period of time, within an agreed territory.

It determines the terms and condition for grant of use of trademark.

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DRAFT OF AGREEMENT LICENSE BETWEEN TRADEMARK OWNER AND A MANUFACTURER

AGREEMENT is made this _____ day of _____ between _____ M/s _____, a Company registered under the Companies Act, _____, and having its registered office at _____ hereinafter referred to as 'the Licensor' of the One Part and Mr. _____ carrying on business of ----- Hereinafter referred has 'the Licensee' of the Other Part

WHEREAS

1. The Licensor is the proprietor of a trade mark more particularly described in the schedule hereunder written and which is duly registered under the Trade and Merchandise Marks Act 1958.
2. The Licensor is manufacturing and selling the goods viz _____ under the said trade mark.
3. The Licensee who is running a small scale industry has requested the Licensor to grant him a license to manufacture the said goods with the trade mark embossed or printed thereon as is being done by the Licensor and which the Licensor has agreed to do on the following terms and conditions agreed to between the parties hereto.

NOW IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. The Licensor hereby grants to the Licensee a license to manufacture the said goods as a job work by applying the said trade mark, particulars of which are described in the Schedule hereunder written.
2. The Licensee agrees and undertakes that all of the said goods manufactured by the Licensee in his factory at _____ or elsewhere shall be sold to the Licensor and not to anybody else at the price of Rs _____ per item or article. The Licensee undertakes to manufacture and supply to the Licensor a quantity of not less than _____ every month.
3. The goods so manufactured with the said trade mark applied to them will be supplied and delivered by the Licensee to the Licensor at the latter's business premises at _____ at his own costs of transport.
4. The price of the said goods so supplied will be paid by the Licensor against delivery after deducting there from the royalty payable by the Licensee to the Licensor as hereinafter provided.
5. The Licensor shall have the right to reject any goods supplied if they are not as per specifications or quality which are made known to the Licensee and in the event of such rejection the Licensee shall take back the rejected goods from the Licensor's premises at his own costs and until such removal they will be at the risk of the Licensee. The Licensor agrees that during the subsistence of this agreement, the Licensor will not get the said goods manufactured from anybody else.
6. The ownership of the said trademark will always remain with the Licensor and the Licensee will not pass off the said goods as if he is the owner of the said trademark.

7. The Licensee will be at liberty to put a label or advertise that the said goods are manufactured by him but it will also be mentioned that the trade mark belongs to the Licensor and that the goods are manufactured for the benefit of the Licensor.

8. In consideration of the Licensor allowing the Licensee to manufacture the said goods with the said trade mark the Licensee agrees to pay to the Licensor by way of royalty a sum equal to _____ per cent of the price of the goods at which they will be sold to the Licensor by the Licensee as aforesaid.

9. The Licensee shall keep an account of the goods manufactured and sold to the Licensor and the price received by him and royalty paid in respect thereof and such account shall be open to inspection by the Licensor from time to time as may be required by the Licensor. The Licensor will also have the right to enter upon the premises of the Licensee where the goods are manufactured and to take inspection of the goods manufactured.

10. This agreement will remain in force for a period of _____ years from the date hereof and on the expiration of the said period or earlier termination thereof as herein provided, the Licensee shall stop manufacturing the said goods under the said trade mark and all the goods till then manufactured and lying undelivered to the Licensor will be delivered to the Licensor in terms of this agreement as aforesaid.

11. If the Licensee commits breach of any term of this agreement, the Licensor will be entitled to terminate this agreement by fifteen days prior notice in writing to the Licensee and on the expiration of the notice period, this agreement shall stand terminated unless in the mean while the breach complained of is remedied to the satisfaction of the Licensor.

12. The Licensee may get himself registered as a registered user under the provisions of the Trade & Merchandise Marks Act 1958 subject to the terms of this agreement.

13. If the Registrar of Trade Marks while registering the Licensee as a registered user puts any condition which is not acceptable to the Licensor, the Licensee will withdraw the application for registration or the Licensor will have the option to terminate this agreement.

14. If any person is found by the Licensee to infringe the said trade mark either by passing off or otherwise, the Licensee will bring that fact to the notice of the Licensor to enable him to take necessary legal action against such person and in that event the Licensee will give all cooperation to the Licensor in prosecuting such action and all the costs thereof will be borne and paid by the parties hereto in equal shares.

15. If the Licensee himself infringes the said trade mark by passing off or otherwise, then notwithstanding anything provided in clause 16 hereof it will be open to the Licensor to take legal action against him and in such case the Licensee will not be entitled to challenge the ownership of the Licensor in respect of the said trade mark.

16. In the event of any dispute arising out of this agreement, the same will be referred to arbitration of a common Arbitrator if agreed upon or in the absence of such agreement, to two Arbitrators one to be appointed by each party hereto and the Arbitration will be governed by the Arbitration Act for the time being in force.

IN WITNESS WHEREOF the parties have put their respective hands the day and year first hereinabove written.

THE SCHEDULE ABOVE REFERRED TO

Signed and delivered for and on behalf of

Within named Licensor _____ Company

By its Managing Director

In the presence of _____

Signed and delivered by the

Within named Licensee Mr. _____

In the presence of _____