

**Product Design Services Agreement**

This Agreement is made and entered into between (check box)

Fellowes, Inc., an Illinois corporation (default)

Fellowes Ltd., a corporation organized under the laws of England and Wales

Fellowes (Australia) Pty. Limited, a corporation organized under the laws of Victoria, Australia

(hereinafter “Fellowes”) and the undersigned supplier (“Supplier”). Fellowes and the Supplier hereby agree as follows:

Fellowes manufactures and distributes consumer products and continually strives to introduce new and innovative products to the market.

Fellowes desires to retain Company to perform certain design work required to develop such products, and Company desires to perform such development work, on the terms and conditions set forth in this Agreement.

Therefore, in consideration of the mutual agreements contained in this Agreement, Company and Fellowes agree as follows:

# Section 1. Definitions

1. The term “Package” shall mean a package with respect to the Product which includes (1) all design sketches, drawing, CAD files, (2) all engineering level written information necessary for the manufacture of the Product by Fellowes, and (3) one or more reproduction prototypes of the Product as finally developed and specified the Specifications.
2. The term “Product” shall mean a product set forth in the Specifications.
3. The term “Specifications” shall mean the specifications for any potential product as set forth in an Exhibit to this Agreement or in a subsequent Fellowes Purchase Order. The Specifications shall include the manner of compensation of the Company for the services on such product and may include other requirements such as acceptance testing procedures and deadlines. Any such requirements are incorporated into and made a part of this Agreement.

Section 2. Statement of Work and Payment

1. Company agrees to design for Fellowes the Product specified in the Specifications.
2. As payment for Company’s services, Fellowes shall pay Company in accordance with the price and/or payment schedule set forth in the Specifications.

Section 3. Company to Keep Fellowes Advised

1. Company shall keep Fellowes fully advised of its progress with respect to the work that will be performed by it under this Agreement and shall afford Fellowes the opportunity to meet with Company at a reasonable time or times to discuss the status thereof.
2. For a period ending one year after acceptance of the Package by Fellowes, Company agrees to assist Fellowes in solving technical problems in manufacturing, test, or usage of the Package without additional cost to Fellowes providing the following conditions are met:
   1. Fellowes has not been able to solve any such problems with reasonable effort and diligence, and
   2. Company receives sufficient notice of any such problems to offer initial assistance by telephone or first class mail communication, and
   3. The problem is caused by a mistake in the design or the Package provided by Company, and
   4. Fellowes has fully and timely complied with the acceptance test procedures set forth in the Specifications.

Section 4. Grant

* 1. Company hereby grants to Fellowes all right, title, and interest in and to any designs, inventions, computer programs (including, but not limited to software, firmware, source code or object code), copyright rights, semiconductor chip mask works rights, trade secrets and know-how, whether or not patentable, along made or conceived by any employee, agent, or representative of Company provided such rights are either (i) embodied in the Product or Package, or (ii) are necessary for the manufacture, distribution, sale, or use of the Product (an “Invention”).
  2. Company agrees to obtain assignment of rights from employees, agents, or representatives with respect to intellectual property developed in the course of contract performance.
  3. Company hereby assigns to Fellowes any rights Company may have or acquire in such Inventions, including any patent applications therefore and copyrights thereon in the United States or any other country, and any patents issued thereon. Company further agrees that to take any such further action as is required to allow such assignment.

Section 5. Confidential Information

1. Fellowes’ Confidential or Proprietary Information
2. Company shall maintain the confidentiality of any Proprietary Materials and Information and not use them except for purposes of doing business with Fellowes. Company will not use the Proprietary Materials and Information for its own purposes or on behalf of others unless expressly permitted in writing by Fellowes. Company will not disclose Proprietary Materials and Information to any third party, including employees, except for disclosures that are required for the purpose of performing the work that Company has agreed to do for Fellowes (“Work Related Disclosure”). Company will only make a Work Related Disclosure to someone who agrees to the same restrictions on disclosure and use of the Proprietary Materials and Information that Company has agreed to in this Agreement. Company will be responsible to Fellowes for any improper disclosure or use of the Proprietary Information by anyone receiving a Work Related Disclosure
3. Proprietary Materials and Information shall include any and all materials provided or information that Company is exposed to including, without limitation, potential products, production fixtures, and testing equipment, technical information, tools tooling designs, engineering specifications, manufacturing technology, and product engineering designs. Proprietary Materials and Information shall also include Fellowes’ owned or licensed programs, source code, information concerning the Fellowes trade secrets, data, methods, processes, procedures, networks, access and passwords resident on networks or computer systems, any other confidential, financial, or business information, all information clearly marked as confidential, and all third party information accessible on or via Fellowes’ networks, systems, interfaces, and Internet links.
4. All information and materials furnished by Fellowes to Company and shall be returned by Company to Fellowes on Fellowes’ request.
5. Exclusions. Company shall have no obligations with respect to any Proprietary Materials and Information which (a) is now or later becomes publicly known unless it later becomes publicly known because Company or someone receiving a Work Related Disclosure breaches the duties specified in this Agreement, or (b) Company learns from someone who is legally entitled to disclose the information without breaching any duties to Fellowes.
6. Nothing in this agreement shall restrict the right of either party to disclose Confidential or Proprietary Information that is ordered disclosed under judicial or other lawful governmental action, but only to the extent so ordered. If Company is ordered to disclose such information, Company agrees to give the Fellowes written notice of the order within five days.

Section 6. Termination

1. If either party shall at any time commit any breach of any covenant, warranty, or promise in this Agreement, and shall fail to remedy any such breach within thirty days after written notice by the other party, such other party, at its option, and in addition to any other remedies that it may be entitled to, may immediately terminate this Agreement by written notice to such effect.
2. Fellowes may terminate the services hereunder at any time for its convenience. In the event of termination for convenience, Fellowes shall remit payment for work performed up to the time of such termination and shall be responsible for reimbursement of expenses incurred up to the date of termination, in each case, in accordance with the Specifications.
3. In the event of any adjudication of bankruptcy, appointment of receiver by a court of competent jurisdiction, assignment for the benefit of creditors, or levy of execution directly involving either party, the other party may, at its option, terminate this Agreement on ten days’ written notice to the affected party.
4. A waiver by either party of any breach of any provision of this Agreement by the other party shall not be considered as a continuing waiver by said party of other breaches of the same or other provision of this Agreement.

Section 7. Indemnification

1. Although Company represents and warrants that it will not knowingly or deliberately design the Product or Package to infringe any third party patent, copyright, or proprietary right, nothing in this Agreement shall infer any obligation on the part of Company to perform or have performed any patent infringement search or conduct any other investigation within or without Company concerning any potential third party rights in the Product or Package.
2. Subject to paragraph A. of this Section, Company makes no representations or warranty as to whether the Product or Package, or any processes, techniques, or know-how contained in the Package when practiced by Fellowes will infringe any U.S. or foreign patents, copyrights, or proprietary rights owned or controlled by any third party.
3. Each party shall indemnify and save harmless the other from and against any and all claims, suits, damages, losses, and expenses resulting from personal injury or property damage arising from the negligence or willful misconduct of the other party.

Section 8. Excusable Delay

Company shall not be responsible for any delay or disruption in performing its obligations if such delay or disruption is caused by force majeure, such as wars, acts of terror, insurrections, strikes, fires, floods, work stoppages, or embargoes.

Section 9. Independent Contractor Status

# Nothing contained in this Agreement is intended or is to be construed so as to constitute (1) Company and Fellowes as partners or joint venturers, or (2) the employees, agents, or representatives of Company as employees, agents, or representatives of Fellowes, or (3) the employees, agents, or representatives of Fellowes as employees, agents, or representatives of Company. It is intended that the relationship of Company to Fellowes shall at all times be that of an independent contractor. No party to this Agreement shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

Section 10. Compliance with Applicable Laws

Company agrees that in carrying out its duties and responsibilities under this Agreement, it will neither undertake nor cause to be undertaken, any activity which either is illegal under any laws, decrees, rules, or regulations in effect in either the United States or any other applicable country or would cause Fellowes to be in violation of any laws, decrees, rules, or regulations in effect in any such country.

Company represents and agrees that it has not offered, given, promised to give or authorized giving, and will not offer, give, promise to give or authorize giving, directly or indirectly, any money or anything else of value to any government official, political party, political official or candidate for political office in connection with any of its activities hereunder.

Section 11. Governing Lawand Dispute Resolution

In no case shallthe1980 U.N. Convention on Contracts for the International Sale of Goods apply.

**If Seller is Fellowes, Inc.:**

The construction, validity and performance of these Terms and Conditions shall be governed and construed according to the internal laws of the State of Illinois. Seller and Customer agree that any legal action arising out of or relating to this agreement or the transactions contemplated by this agreement shall be brought in either the United States District Court in and for the Eastern Division of the Northern District of Illinois or the Circuit Court in and for Du Page County, Illinois, and consents to personal jurisdiction of such courts over them in any such action. Seller and Customer waive any defense of inconvenient forum to the maintenance of any such action or proceeding so brought and waives any bond, surety, or other security that might be required of either Seller and Customer.

**If Seller is Fellowes Ltd.:**

The construction, validity and performance of these Terms and Conditions shall be governed and construed according to the laws of England and Wales. Seller and Customer agree that any legal action arising out of or relating to this agreement or the transactions contemplated by this agreement shall be brought in England and Wales, and consents to personal jurisdiction of such courts over them in any such action. Any such action shall be conducted in English. Seller and Customer waive any defense of inconvenient forum to the maintenance of any such action or proceeding so brought and waives any bond, surety, or other security that might be required of either Seller and Customer.

**If Seller is Fellowes (Australia) Pty. Limited:**

The construction, validity and performance of these Terms and Conditions shall be governed and construed according to the laws of the State of Victoria, Australia. Seller and Customer agree that any legal action arising out of or relating to this agreement or the transactions contemplated by this agreement shall be brought in Victoria, Australia, and consents to personal jurisdiction of such courts over them in any such action. Any such action shall be conducted in English. Seller and Customer waive any defense of inconvenient forum to the maintenance of any such action or proceeding so brought and waives any bond, surety, or other security that might be required of either Seller and Customer.

Section 12. Binding Effect

This Agreement shall be binding on and inure to the benefit of Fellowes and its successors, assigns, and legal representatives. This Agreement being personal to Company may not be assigned by Company except that Company may assign to a third party its right to receive payments under this Agreement. The provisions of Sections 4, 5, and 7, and such provisions as are necessary to interpret such provisions, shall survive termination of this Agreement for any reason.

Section 13. Notice

All notices that are required to be given by either party to the other under this Agreement shall be deemed to have been duly given when delivered to the other party at its address first set forth in this Agreement (or to such other address as the other party shall by like notice specify from time to time) as indicated by a signed proof of delivery provided by an internationally recognized express courier (e.g. FedEx, DHL, UPS).

Section 14. Entire Agreement

This Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter of the Agreement and supersedes all prior agreements and understanding relative thereto. This Agreement modifies and takes precedence over any conflicting terms and conditions in Fellowes’ purchase order or other document and no representations have been made by either party to the other except as contained in this Agreement. Any modification or amendment of the terms of this Agreement must be in writing executed by each of the parties.

Section 15. Headings

The captions of the sections of the Agreement are inserted for convenience only and are not intended to constitute a part of this Agreement.

Each party has caused this Agreement to be properly executed on its behalf as of the last date set forth below.

FELLOWES, INC. SUPPLIER

Signature: Signature:

Print Name: Print Name:

Title: Title:

|  |  |
| --- | --- |
| Supplier Name: |  |
| Address: |  |
| Effective Date: |  |
| End Date (if any): |  |
| Describe attachments if any: |  |

**PLEASE RETURN FULLY EXECUTED COPY TO FELLOWES LEGAL DEPARTMENT**

**1789 Norwood Avenue, Itasca, IL 60143**