

CHECKLIST: MANUFACTURING AGREEMENT

This checklist lists basic information required for a manufacturing agreement. It is not necessarily complete, as particular circumstances may require different/extra information. Some of the questions may require our advice for proper interpretation and response. If you would like us to draft or review a manufacturing agreement for you, please complete the checklist (so far as you can) and send it to us.

Owner

Owner's full name	
Owner's ACN or ABN	
Owner's registered office address	
Owner's contact name	
Owner's telephone no.	
Owner's facsimile no.	
Is the owner a sole director and sole secretary company?	Yes / No
Is the owner the trustee of any trust? If yes, please provide the following in respect of each trust: (a) A copy of the trust deed. (b) Copies of all deeds amending the trust deed. (c) Copies of all deeds of retirement and appointment of trustee.	Yes / No

Manufacturer

Manufacturer's full name	
Manufacturer's ACN or ABN	
Manufacturer's registered office address	
Manufacturer's contact name	
Manufacturer's telephone no.	
Manufacturer's facsimile no.	
Is the manufacturer a sole director and sole secretary company?	Yes / No
Is the manufacturer the trustee of any trust? If yes, please provide the following in respect of each trust:	Yes / No

(a) A copy of the trust deed.	
(b) Copies of all deeds amending the trust deed.	
(c) Copies of all deeds of retirement and appointment of trustee.	
Intellectual property	
What intellectual property rights exist in relation to the products or services:	
<ul style="list-style-type: none"> • Copyrights. • Designs. • Patents. • Trade marks. • Others. 	
Who owns each of those rights?	
Manufacturer's territory	
What is to be the manufacturer's territory?	
Is the owner permitted to appoint other manufacturers in the territory?	
Is the manufacturer to have the right of first refusal to other territories? If so, is it to be subject to any restrictions?	
Term & option to renew	
What is the initial term of the manufacturing agreement?	
Is the manufacturer to have an option to renew or is the agreement to continue automatically after the initial term?	
Sub-contractors	
Is the manufacturer to have the right to appoint sub-contractors?	Yes / No
Specifications	
What specifications of the goods or services are to be met by the manufacturer?	
What are to be the owner's rights to change the specifications?	
Prices	
What prices are to be set for the manufacturer's products and services? (E.g., agreed list prices or cost plus	

agreed margin.)	
Do the prices include or exclude taxes and export/import duties?	
How much notice of price rises is required?	
If orders are to be priced individually, what procedure is to be followed?	
Orders	
Where are orders to be placed?	
What is to be the procedure (including time limits) for placing and acceptance/rejection of orders?	
By what method are orders to be placed and accepted?	
What right (if any) will the manufacturer have to require variation of orders?	
What right (if any) will the owner have to vary orders after acceptance by the manufacturer?	
What minimum orders are required to be placed by the owner? (Provide for each selling period, if appropriate.)	
What minimum frequency of orders is required of the owner?	
What forward estimates of its orders is the owner required to provide? At what frequency?	
Packaging	
How are goods to be packed? (E.g., number of items to a carton; style and design of packaging.)	
Delivery	
What is the time allowed for delivery of orders?	
Where are the goods to be delivered to the owner? E.g.: <ul style="list-style-type: none"> • Ex factory. • To specified port or airport. • On board ship/aircraft. • Owner's premises. • Elsewhere. 	

Title and risk	
When are title to and risk in goods to pass to the owner?	
Licences	
Who is to obtain manufacturing, export and import licences, if required?	
Payment	
Who is to pay the cost of:	
<ul style="list-style-type: none"> • Packaging. • Shipping. • Insurance. • Export/import/other licences. • Customs procedures. • Taxes and duties. • Storage. • Delivery. 	<p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p> <p>Manufacturer / Owner</p>
What are the terms of payment for goods or services? E.g.:	
<ul style="list-style-type: none"> • Full prepayment. • Deposit and balance. • Payment on or after delivery. • Place of payment. • Method of payment. • Letters of credit. 	
What is to be the consequence of delay in payment?	
Stock	
What minimum stock requirements (if any) must the manufacturer maintain?	
What minimum stock requirements (if any) must the owner maintain?	
For how long must the manufacturer maintain a stock of spare parts?	
Support	
What technical support services is the owner to provide?	
Warranties/limitation of liability	
What warranties is the manufacturer to	

provide?	
What implied warranties (if any) are to be excluded?	
What restrictions (if any) are there to be on the manufacturer's liability for its products or services?	
Complaints	
What complaint investigation and resolution systems are to be provided by the owner and the manufacturer?	
What restrictions (if any) are there to be on the making of claims against the manufacturer?	
Termination	
How much notice is required to terminate the agreement after the end of the fixed term?	
How much time is either party to be allowed to remedy breaches of the agreement before the other party is able to terminate the agreement?	
In case of termination of the agreement, what are the owner's and the manufacturer's respective rights regarding the manufacturer's stock of the products?	
Other terms	
Which state's laws are to govern the agreement?	
Are there any other terms that have been agreed between the owner and the manufacturer?	