

CHECKLIST: COMMERCIAL LICENCE AGREEMENT

This checklist lists basic information required for a commercial licence. 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 commercial licence for you, please complete the checklist (so far as you can) and send it to us.

Licensor

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

Licensee

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

trust deed. (c) Copies of all deeds of retirement and appointment of trustee.	
Intellectual property	
What intellectual property rights exist in relation to the licensor's products or services: <ul style="list-style-type: none">• Copyrights.• Designs.• Patents.• Trade marks.• Business names.• Others.	
Who owns each of those rights? Please provide copies of all registration certificates.	
Licensee's territory	
What is to be the licensee's territory?	
Is the licensor permitted to sell its products and services to customers in the territory?	
Is the licensor permitted to appoint other licensees in the territory?	
Is the licensee to have the right of first refusal to other territories? If so, is it to be subject to any restrictions?	
Licence term and options to renew	
Term	
Commencement date	
Termination date	
Options to renew	No. of options: Length of further terms:
Minimum notice required to exercise option to renew	
Maximum notice required to exercise option to renew	
Final termination date	
Sub-licensees	
Is the licensee to have the right to appoint sub-licensees?	Yes / No

Specifications	
<p>What specifications of the following are to be met by the licensee?</p> <ul style="list-style-type: none"> • Goods or services • Location • Lease – who is to hold it? • Fitout • Signage • Use of intellectual property • Uniforms • Equipment • Systems • Raw materials • Packaging • Delivery systems • Trading hours • Stationery, trading terms, etc. • Brochures, price lists, etc. • Performance standards • Others 	
<p>What are to be the licensor's rights to change the specifications?</p>	
Licences	
<p>What licences is the licensee required to obtain and hold?</p>	
Insurance	
<p>What insurances is the licensor required to effect? E.g.:</p> <ul style="list-style-type: none"> • Public risk • Workers compensation • Other 	<p>Minimum cover \$ Yes – per legislation / No</p>
<p>What insurances is the licensee required to effect? E.g.:</p> <ul style="list-style-type: none"> • Public risk • Workers compensation • Other 	<p>\$ Yes – per legislation / No</p>
Prices	

What prices are to be set for the licensee'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?	
Goods/services supplied by licensor	
What goods or services are to be supplied by the licensor?	
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 licensor have to require variation of orders?	
What right (if any) will the licensee have to vary orders after acceptance by the licensor?	
What minimum orders are required to be placed by the licensee? (Provide for each selling period, if appropriate.)	
What minimum frequency of orders is required of the licensee?	
What forward estimates of its orders is the licensee required to provide? At what frequency?	
Delivery of goods/services by licensor	
What is the time allowed for delivery of orders?	
Where are the goods to be delivered or services supplied to the licensee? E.g.: <ul style="list-style-type: none"> • Ex factory. • To specified port or airport. • On board ship/aircraft. • Licensor's premises. • Elsewhere. 	
Title and risk in goods supplied by licensor	

When are title to and risk in goods to pass to the licensee?	
Payment for goods/services supplied by licensor	
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. 	Licensee / Licensor Licensee / Licensor Licensee / Licensor Licensee / Licensor Licensee / Licensor Licensee / Licensor Licensee / Licensor Licensee / Licensor
What are the terms of payment for goods or services by the licensor? 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?	
Approved suppliers	
What goods/services are to be acquired by the licensee only from approved suppliers?	
Please provide a list of approved suppliers.	
Marketing	
What marketing activities (if any) are to be conducted by: <ul style="list-style-type: none"> • By the licensor • By the licensor and the licensee together? 	
What marketing or marketing support is the licensor to provide? E.g.: <ul style="list-style-type: none"> • Advertising and promotion. • Brochures and other sales aids. 	

<ul style="list-style-type: none"> • Support staff. • Periodic visits. • Financial contribution. 	
<p>What minimum standards (if any) are required of the licensee with regard to:</p> <ul style="list-style-type: none"> • Sales staff. • Sales effort. • Advertising and promotion. • Representations at industry shows, etc. • Record-keeping. • Reporting to the licensor. • Financial contribution to promotion. 	
<p>What advertising & promotion contribution is the licensee to make? E.g.:</p> <ul style="list-style-type: none"> • Fixed periodical sum. • Percentage of revenue. 	
Training	
<p>What training is the licensor to provide:</p> <ul style="list-style-type: none"> • Initially. • Subsequently. 	
<p>Where is the training to be undertaken and at whose cost?</p>	
<p>What other training is the licensee required to undertake:</p> <ul style="list-style-type: none"> • Initially. • Subsequently. 	
<p>Where is the training to be undertaken and at whose cost?</p>	
Stock	
<p>What minimum stock requirements (if any) must the licensee maintain?</p>	
<p>What minimum stock requirements (if any) must the licensor maintain?</p>	
<p>For how long must the licensee maintain a stock of spare parts?</p>	
Support	

What technical support services is the licensor to provide?	
Warranties/limitation of liability	
What warranties is the licensee to provide?	
What implied warranties (if any) are to be excluded?	
What restrictions (if any) are there to be on the licensee's liability for its products or services?	
Complaints	
What complaint investigation and resolution systems are to be provided by the licensor and the licensee?	
What restrictions (if any) are there to be on the making of claims against the licensee?	
Licensee fees/royalty	
What is the initial licence fee?	\$ _____
Is part/all of it to be paid as a deposit?	No / Yes: Sum \$ _____
Is the deposit to be refunded if the licensee does not proceed?	No / Yes
Is the initial licence fee also payable on renewal of the franchise?	No / Yes
What periodic licence fee/royalty is payable during the term? E.g.: <ul style="list-style-type: none"> • Fixed periodic sum. • Percentage of revenue. 	
What is to be the payment frequency and due dates?	
Is GST included or to be added to the licence fees?	Included / To be added / N/A
What periodic reports are required from the licensee?	
Guarantee of licensee's obligations	
Guarantors' full names	
Guarantors' addresses	
Have you obtained or do you require financial references for the guarantors?	Obtained / (Not) required
Is the guarantee to be unlimited or limited?	Unlimited / Limited to (specify)

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 licensor's and the licensee's respective rights regarding: <ul style="list-style-type: none"> • The licensee's stock of goods, raw materials, stationery, etc. • Goodwill. 	
Other terms	
Please specify all representations that have been made by the licensor/its agent <u>and/or</u> by the licensee.	
Please specify all warranties that have been given by the licensor/its agent <u>and/or</u> by the licensee.	
Are there any other terms that have been agreed between the licensor and the licensee?	
Which state's laws are to govern the licence agreement?	