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| Fairtrade Trade Mark Licensing Agreement |
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| **This Agreement** is made on | |
| **Parties** | |
|  | Fairtrade Australia and New Zealand Ltd (ACN 114 571 881) registered in Australia of Suite 312, Level 3, 838 Collins St, Docklands VIC 3008 (***Fairtrade ANZ***) (and registered in New Zealand as an overseas company (company number 1659439) of 84c Hurstmere Road, Takapuna, Auckland New Zealand). |
|  | [ (ACN [\*])][ registered in Australia of [\*] (the ***Licensee***). |
| **Recitals** | |
|  | Fairtrade ANZ is authorised by Fairtrade International to license the Fairtrade trade mark to third persons for use only on or in relation to products that meet Fairtrade Standards and that are intended for sale in Australia and New Zealand and for cross border sales into countries other than Australia and New Zealand for which there is a country-specific NFO. |
|  | The Licensee is currently engaged in the business of trading in products that meet the Fairtrade Standards and are eligible for the Fairtrade trade mark. |
|  | The Licensee wishes to obtain from Fairtrade ANZ the right to use the Fairtrade trade mark in relation to the promotion and sale of those products. |

**It is agreed** as follows.

1. Definitions

The following definitions apply unless the context requires otherwise.

**“Advertising & Promotional Materials”** means all materials and statements used by the Licensee in relation to Products and includes (among others) leaflets, brochures, catalogues, press and broadcast advertising, press releases and information published via the internet.

**“Agreement”** means this licence agreement including the attached schedules, all of which may be amended from time to time in writing in accordance with procedures in this Agreement.

**“Artwork”** means electronic images or photographic artwork containing the Mark supplied or produced by Fairtrade International or with its authorisation.

"**Assurance Provider**" means FLOCERT or another certification body to whom Fairtrade International has delegated the function of inspection and Certification.

**“Audit”** means a process of verification to assess the compliance of a Fairtrade Operator and/or a product with the Fairtrade Standards or to assess a Licensee's compliance with this Agreement. Audits may be conducted on- or off-site and may be announced or unannounced.

**"Auditor"** means any person qualified to carry out Audits on behalf of Fairtrade ANZ. The Auditor is appointed by Fairtrade ANZ and is an independently contracted natural or legal person.

**"Certification"** means the process by which an Assurance Provider determines compliance with applicable Fairtrade Standards.

**"Certification Agreement"** means the agreement between an Assurance Provider and a Fairtrade Operator in relation to Ingredients.

**“Commencement Date”** means the date of execution of this Agreement.

**“Confidential Information”** means, in relation to a Party, any information or material pertaining to that Party’s business, information of a confidential nature about or pertaining to that Party, and information marked as confidential or agreed by the Parties in writing to be held in confidence.

The Confidential Information of Fairtrade ANZ (but not that of the Licensee) includes:

* 1. trade secrets, financial information, know-how and business and marketing plans pertaining to the Mark;
  2. all amounts paid or payable under this Agreement;
  3. the methods of calculation of payments due under this Agreement; and
  4. the terms of this Agreement;

whether oral, in writing or recorded in any other medium or mode of storage.

**"Cross-Border Sales**" means the export of Products by the Licensee to countries other than those in the Territory.

**"Decertification"** means removal of Certification.

"**Fairtrade ANZ**" means Fairtrade Australia and New Zealand Ltd (ACN 114 571 881) of Suite 312, Level 3, 838 Collins St, Docklands VIC 3008 Australia, and registered in New Zealand as an overseas company (company number 1659439) of 84c Hurstmere Road, Takapuna, Auckland New Zealand, collectively the exclusive NFO for Australia & New Zealand.

1. **"Fairtrade Connect"** means Fairtrade ANZ's online platform for communicating with licensees,
2. available at www.connectfairtrade.org.

"**Fairtrade Group**" means Fairtrade International, FLOCERT, Fairtrade Marketing Organizations, and any members of Fairtrade International as defined in the Fairtrade International Constitution.

**"Fairtrade Importer"** means any person certified under the relevant Fairtrade Standards as the primary purchaser of Ingredients or Products other than in the country of origin at the date of any transaction relevant to this Agreement, and is either a party to a Certification Agreement with Fairtrade ANZ, or is certified or registered as a Fairtrade Importer by an Assurance Provider.

**"Fairtrade International"** means Fairtrade Labelling Organizations International, e.V., being the body that sets and maintains Fairtrade standards on behalf of its member NFOs.

**“Fairtrade Operator”** means any person that has current Certification including:

* 1. Fairtrade Producers;
  2. Fairtrade Importers;
  3. those which process a Product by transforming it in the original producing country;
  4. those which export Products from the original producing country); and
  5. those which manufacture a Product by transforming it outside the original producing country.

1. **"Fairtrade Premium"** is an amount paid to Fairtrade Producers in addition to the payment for their products. The Fairtrade Premium is intended for investment in the producers’ business and community (for a small farmers’ organization or contract production set-up) or for the socio-economic development of the workers and their community (for a hired labour situation).

**“Fairtrade Producer”** means any person who has been certified according to Fairtrade Standards relevant for production and any applicable product standards and who has a FLOCERT certificate of registration valid at the date of any transaction relevant to this Agreement.

**“Fairtrade Standards”** means any and all of the standards published by Fairtrade International, FLOCERT or Fairtrade ANZ, as amended from time to time, including without limitation all standards, criteria, guidelines, policies or otherwise referred to in Schedule 3.

**"Fairtrade Trader Standard"** means the standard referred to in item 2.2 of Schedule 3, as amended from time to time.

**"FLOCERT"** means FLOCERT GmbH, the international Assurance Provider certifying Fairtrade Operators under Fairtrade Standards.

**"Flow of Goods Report"** means the statement which the Licensee provides to Fairtrade ANZ relating to past transactions in connection with its trade in Products pursuant to item 2.2 of Schedule 5.

**“Ingredients”** means any substance or material, including a food additive, used in the manufacture or preparation of a good (including food [or beverage) and present in the final Product offered for sale by the Licensee, although possibly in a modified form.

**"Law"** means all statutes, proclamations, notices in the Government Gazette, ordinances, by‑laws and other legislation applicable in the Territory in which the relevant activity occurs and (without limiting the generality of the foregoing) all consumer product safety standards, any consumer protection legislation, and any agreements with third persons relating to Products.

**"Licence Fee"** means the payment required pursuant to item 1 of Schedule 5.

**“Licensee”** means the person listed as a licensee in item 1.1 of Schedule 1.

**“Mark”**means the trade mark as applicable to each Product category under the relevant guidelines, as set out in Schedule 1, and subject to paragraph 12.3(a)(ii).

**“Mark Guidelines”**means the guidelines referred to in item 2.1 of Schedule 3.

**“Net Sales Value”** means the total revenue received for the sale of Products within a Reporting Period, after any discounts or rebates given to customers have been deducted.

**"NFO"** means "National Fairtrade Organisation", being a member organisation of Fairtrade International; a list of NFOs is available via Schedule 3 and includes Fairtrade ANZ.

**“Packaging”** means all packaging materials ordinarily supplied with a Product and includes (among others) all containers, wrappers, labels and transit packaging.

**"Party"** means a party to this Agreement.

**"Premises"** means any premises at which Products are produced, manufactured, transformed, labelled, packaged, distributed, treated, stored or warehoused.

**"Products"** means the products listed in Schedule 2 and the products approved by Fairtrade ANZ on Fairtrade Connect as updated from time to time, which are within the categories listed in the Fairtrade Product Standards referred to in Schedule 3.

**“Report Day”** means **for Small Licensees:** 31 March**/ for all other Licensees:** 31 March, 30 June, 30 September, and 31 December in each year provided that the last Report Day will be the Termination Date or the Sell-Off Date, whichever occurs later notwithstanding that it is not any of 31 March, 30 June, 30 September or 31 December.

**"Reporting Period"** means each calendar quarter commencing on 1 January, 1 April, 1 July or 1 October **for Licensees**, and one year **for Small Licensees.**

**"Resellers or Business Partners**" means, without limitation, any entity that purchases goods from the Licensee with the intention of selling them rather than consuming or using them themselves or that engages in trade or commerce or has a commercial relationship with the Licensee, such as, for example, businesses operating as supermarkets, retailers (including online retailers) or cafes.

**"Sell-Off Date"** means the last day of the Sell-Off Period, whether the Sell-Off Period expires or is terminated.

**"Sell-Off Period"** has the meaning given to that term in paragraph 11.4(c).

**"Small Licensee"** means an entity who meets the criteria (as set by Fairtrade ANZ) as a Small Licensee as set out in Schedule 1, and has been approved as a Small Licensee following application to Fairtrade ANZ.

"**Sub-Licensee**" means a person approved by Fairtrade ANZ pursuant to paragraph 2.1(b).

"**Suspension**" means temporary suspension of the Licensee’s right to use the Mark under this Agreement.

**"Termination Date**" means the date on which this Agreement is terminated.

**"Territory"** means the territory specified in item 1.3 of Schedule 1 and as updated on Fairtrade Connect from time to time.

**"Trade Marks Act"** means the *Trade Marks Act 1995* (Cth) if the Territory is Australia and *Trade Marks Act 2002* (NZ) if the Territory is New Zealand.

1. **"Trade Mark Licensing Agreement"** means an agreement between Fairtrade ANZ and another party which grants a sub-licence in relation to a Fairtrade International trade mark.
2. Right to Use the Mark
   1. Rights of the Licensee
      1. Subject to the terms and conditions of this Agreement, Fairtrade ANZ grants to the Licensee, a non-exclusive licence to use the Mark within the Territory solely on or in relation to the supply of Products.
      2. The licence granted in paragraph 2.1(a) is personal to the Licensee and, subject to sub‑paragraph 2.1(c) excludes any right to grant sub-licences, or assign any of its rights under the licence (other than in accordance with paragraph 14), without the prior written approval of Fairtrade ANZ (which may be withheld by Fairtrade ANZ in its absolute discretion, both in relation to the identity of the Sub-Licensee and the terms and conditions of any agreement between the Licensee and any Sub-Licensee (***Sub-Licence Agreement***)).
      3. Pursuant to the licence granted in sub-paragraph 2.1(a) and notwithstanding the general prohibition on the grant of sub-licences in sub-paragraph 2.1(b), the Licensee may engage a person who is not a Party to apply the Mark to any designs for Packaging and Advertising & Promotional Materials for the purposes of sub-paragraph 5(d) on behalf of the Licensee (***Artwork Engagement***).

In respect of any Artwork Engagement, the Licensee:

* + - 1. must notify Fairtrade ANZ of any such Artwork Engagement;
      2. must keep proper and accurate written records of any Artwork Engagements and any materials sent or received for the purposes of an Artwork Engagement that contain the Mark;
      3. must make such records and materials available for inspection by Fairtrade ANZ within one day's notice; and
      4. acknowledges that it retains responsibility for the submission to Fairtrade ANZ of designs that result from the Artwork Engagement.
    1. The Licensee must not market Products in any country outside the Territory or engage in Cross-Border Sales without receiving, through Fairtrade Connect,
       1. prior approval from Fairtrade ANZ; and
       2. a notification that the relevant NFO accepts the marketing and/or sale of Products in its country without a separate licence agreement.
    2. In using the Mark, the Licensee will not have, and may not represent in any way that is has, any title or right to the ownership or registration or use of the Mark (except as expressly provided in this Agreement) or any goodwill attaching to the Mark.
  1. Resellers or Business Partners
     1. The Licensee may not permit Resellers or Business Partners without a Trade Mark Licensing Agreement to use the Mark.
     2. The Licensee must direct Resellers or Business Partners to contact Fairtrade ANZ for permission to use the Mark.
  2. Licensee to remain liable

If a Sub-Licensee or any person under an Artwork Engagement commits any act or omits to do any thing which would constitute a breach of this Agreement if carried out by the Licensee, or which constitutes a breach of any Artwork Engagement or Sub-Licence Agreement, any such act or omission is deemed to be a breach of this Agreement by the Licensee, and the Licensee will be liable for such breach to the same extent as if such act or omission had been made by the Licensee.

1. Compliance with Fairtrade Procedures
   * 1. The Licensee hereby warrants and undertakes that it is:
        1. solely responsible for manufacture of Products; or
        2. is the final or sole distributor to the retail stockist or commercial end user,

and that it will comply with the terms and conditions set out in this Agreement.

* + 1. The Licensee undertakes to fully comply with:
       1. all Fairtrade Standards as applicable at the relevant time; and
       2. if it is a party to a Certification Agreement, that Certification Agreement.
    2. If in Fairtrade ANZ's reasonable opinion a Product has not been produced in accordance with Fairtrade Standards, on notice being given by Fairtrade ANZ, the Licensee must immediately withdraw such Product from production and sale by the Licensee.

1. Use of the Mark
   1. Licensee must use the Mark
      1. The Licensee must use the Mark at least to the extent required for the maintenance of the valid registration of the Mark in the Territory. Should such level of use not be possible, then without limiting its other obligations under this Agreement, the Licensee must notify Fairtrade ANZ with sufficient notice to permit Fairtrade ANZ to take such steps as Fairtrade ANZ considers necessary or desirable in its sole discretion to maintain the registration of the Mark in the Territory.
      2. The Licensee will have no claim against Fairtrade ANZ in relation to the removal of the Mark from the Register of Trade Marks (as defined by the Trade Marks Act), or the imposition of conditions or limitations on the registration of the Mark, in the event that a challenge against the status of the Mark is successfully brought due to the Licensee's failure to comply with paragraph 4.1(a).
   2. Integrity and maintenance of the Mark
      1. The Licensee must not:
         1. through any act or omission use the Mark or cause the Mark to be used in relation to any other products which are not Products as defined in this Agreement, or imply in any way that such products meet the Fairtrade Standards represented by the Mark;
         2. use the Mark in conjunction with another trade mark or any device, character, word, name, imagery, symbol or other thing so as to create a composite trade mark or so as to otherwise create (or to be likely to create) in the minds of all or part of the public an association between the Mark or Fairtrade ANZ and such other trade mark, device, character, word, name, imagery or symbol or other thing or the owner or an authorised user thereof or anyone identified therewith by all or part of the public;
         3. use any sign, whether as a trade mark or otherwise, which is substantially identical or deceptively similar to the Mark;
         4. register, attempt to register or use any trade mark, domain name, company name or business name which comprises or includes sign, mark, device, character, word, name, imagery or symbol or other thing which is identical, substantially identical or deceptively similar to the Mark or to any form of the Mark as used or licensed by Fairtrade ANZ;
         5. in any way incur any obligations on behalf of Fairtrade ANZ or make any representations, promises or warranties on behalf of Fairtrade ANZ; or
         6. use the Mark in any manner likely to mislead, deceive or cause confusion in trade, jeopardise the exclusiveness, distinctiveness or reputation of the Mark or have an adverse effect on the goodwill in or the value of the Mark, and must not engage in conduct in relation to its business generally in a way which may bring the Mark or the business of Fairtrade ANZ, Fairtrade International, FLOCERT or any NFO into disrepute.
   3. Exclusion

In the event that the Territory is:

* + 1. Australia, the provisions of section 26 of the *Trade Marks Act 1995* (Cth); and
    2. New Zealand, the provisions of sections 102-104 and 141 of the *Trade Marks Act 2002* (NZ),

are excluded from this Agreement.

1. Application of the Mark (Packaging and Promotion)
   * 1. The Licensee must use the Mark in strict compliance with the Mark Guidelines, and must ensure that the Mark is reproduced solely in accordance with, and without variation from, Artwork.
     2. Without limiting paragraph 5(a), the Licensee must observe any other reasonable directions given by Fairtrade ANZ from time to time in relation to colouring, size, manner or disposition of the Mark on Packaging or Advertising & Promotional Materials.
     3. The Mark must be reproduced solely on the basis of graphic files provided by Fairtrade ANZ. The Licensee is responsible for the transmission of these files to its supplier or printer for the production of the Packaging or Advertising & Promotional Materials and to verify the correct reproduction thereof.
     4. The Licensee must submit to Fairtrade ANZ for approval all designs for Packaging and Advertising & Promotional Materials in relation to which the Mark is intended to be used, and must not use such Packaging or Advertising & Promotional Materials until approved by Fairtrade ANZ, which approval will not be unreasonably withheld or delayed. Fairtrade ANZ’s approval pursuant to this paragraph is for the purpose of preserving and protecting the reputation of the Mark and shall be based on compliance with the applicable Mark Guidelines and consistency with the quality of the Mark.
     5. The Licensee is responsible for ensuring that it, and any Sub-Licensee or person under an Artwork Engagement, complies with all Laws in relation to its designs for and use of Packaging and Advertising & Promotional Materials.
     6. The Licensee acknowledges that any approval by Fairtrade ANZ for or in relation to any Products, or any Packaging or Advertising & Promotional Materials, does not constitute in any way a representation that any device, character, word, name, imagery or symbol or other thing, complies with any Law and does not infringe the rights of any person.
2. Licence Fees and Reporting

The Licensee must pay a Licence Fee and report sales of Products to Fairtrade ANZ in the manner prescribed in Schedule 5.

1. Additional Licensee Obligations
   * 1. The Licensee must comply with all the terms of this Agreement.
     2. The Licensee must grant Fairtrade ANZ or its appointed Auditor access to its Premises and records for the purpose of Audits (both announced and unannounced), including those referred to in the Fairtrade Trader Standard.
     3. The Licensee must notify Fairtrade ANZ of any changes of ownership or control of the Licensee or the Licensee’s facilities or Premises.
     4. The Licensee must not challenge or call into question Fairtrade International's ownership of the Mark or the validity of the Mark and in any way the right of Fairtrade ANZ to grant any licence or to use the Mark for any purpose whatsoever.
     5. The Licensee acknowledges and agrees that the exercise of the licence granted to the Licensee under this Agreement is subject to the Law, and the Licensee understands and agrees that it will at all times be solely liable and responsible for due observance and performance.
2. Breach by Licensee
   1. Breach of Agreement
      1. Where Fairtrade ANZ considers in its sole discretion that the Licensee has breached any of the terms of this Agreement, Fairtrade ANZ may in its sole discretion determine whether such breach is capable of remedy.
      2. Without prejudice to any of its rights under

this Agreement;

if it is a party to a Certification Agreement, that Certification Agreement; or

any of the Fairtrade Standards,

Fairtrade ANZ must notify the Licensee and give the Licensee a specified timeframe (no shorter than fourteen (14) days) after receipt of written notice of the breach to remedy the breach.

* + 1. Fairtrade ANZ may require a Licensee to prove the breach has been remedied by requiring the Licensee to submit to Fairtrade ANZ relevant supporting documentation or to submit to an additional Audit.
    2. Fairtrade ANZ has the right to Suspend the Licensee until such time as the Licensee has remedied the breach.
    3. The Licensee acknowledges that if it is a party to a Certification Agreement and becomes suspended under that Certification Agreement or is Decertified, notwithstanding any other provisions under this Agreement, it is automatically and immediately Suspended under this Agreement.
  1. Breach of conditions of use of the Mark

In the event any conduct or omission by the Licensee in using the Mark, in the reasonable opinion of Fairtrade ANZ, breaches any of the conditions for use of the Mark or has or is likely to have a result contemplated in paragraph 4.2(a)(vi), Fairtrade ANZ may, in its sole discretion, take one or more of the following actions:

* + 1. require the Licensee to change or stop such conduct, or to correct such an omission, or to withdraw from circulation any materials that, in the reasonable opinion of Fairtrade ANZ, breach the conditions for use of the Mark or are an actual or potential cause of confusion in the market. The Licensee must comply with any timeline as set by Fairtrade ANZ;
    2. suspend the Licensee until such time as the Licensee has remedied the breach; or
    3. issue notice of termination in accordance with paragraph 11.2(b)(iii).

1. Proceedings and Protection of Rights
   * 1. The Licensee must notify Fairtrade ANZ immediately if it receives any notice of any actual or threatened infringement or other misuse of the Mark, whether in the Territory or otherwise, and any allegation or claim (written or otherwise) that the use of the Mark by the Licensee, Fairtrade ANZ or other licensees of Fairtrade ANZ, infringes the rights of any other person or otherwise contravenes any Law.
     2. The Licensee acknowledges and agrees that:
        1. Fairtrade ANZ and/or Fairtrade International will determine in its or their sole discretion (at Fairtrade ANZ's election) whether and what action will be taken to protect the rights of Fairtrade ANZ and/or Fairtrade International in relation to the Mark, and that Fairtrade ANZ and/or Fairtrade International will be entitled to any relief awarded or directed to be taken as a result of any such aforementioned action; and
        2. Fairtrade ANZ and/or Fairtrade International will have absolute control over any litigation involving or affecting the actual or purported use of the Mark (except for litigation between Fairtrade ANZ and the Licensee) and the Licensee may not initiate proceedings to protect the Mark or pursue or defend the rights of Fairtrade ANZ and/or Fairtrade International in relation to the Mark.
     3. The Licensee must promptly provide to Fairtrade ANZ such assistance as Fairtrade ANZ may reasonably require from time to time in relation to:
        1. the defence of any proceeding or claim by a person challenging or opposing any registration which Fairtrade International or Fairtrade ANZ has for the Mark (in the Territory or otherwise and whether or not in respect of the Products) or Fairtrade ANZ’s use of the Mark or right to use the Mark, including a challenge pursuant to section 92 of the *Trade Marks Act 1995* (Cth) or section 65 of the *Trade Marks Act 2002* (NZ) (as the case may be);
        2. any proceedings which may be instituted by Fairtrade ANZ, or any claim made by Fairtrade ANZ, alleging that the use of the Mark by any third person infringes the rights of Fairtrade ANZ in relation to the Mark or to any registration which Fairtrade ANZ has for the Mark (in the Territory or otherwise and whether or not in respect of the Products); and
        3. securing or maintaining registration of the Mark under the Trade Marks Act (whether or not pursuant to any registration which Fairtrade ANZ has for any Mark (in the Territory or otherwise and whether or not in respect of the Products),

provided that Fairtrade ANZ must reimburse the Licensee for the Licensee’s reasonable costs and expenses of complying with this paragraph 9(c).

1. Indemnity
   * 1. Subject to paragraph 10(c), either Party’s liability for an infringement of obligations under this Agreement will be limited to damages caused intentionally or by gross negligence. In no event will either Party be liable to the other for indirect, punitive or consequential damages of any kind. Any exclusion or limitation of liability of Fairtrade ANZ includes the personal liability of employees, legal representatives and vicarious agents of the Fairtrade Group as well as the liability of the organisations in the Fairtrade Group.
     2. In any event and under all circumstances, Fairtrade ANZ’s entire and total cumulative liability to the Licensee for breach of any provision of this Agreement or otherwise shall never exceed the total amount paid by the Licensee to Fairtrade ANZ hereunder.
     3. The Licensee will be liable for and indemnify Fairtrade ANZ together with its staff, consultants, agents and representatives, including its appointed Auditors (together, ***Indemnified Parties***) against any and all liability, loss, damages, costs, legal costs, professional and other expense of any nature incurred or suffered by any or all of the Indemnified Parties arising out of any dispute or contractual, tortious or other claims or proceedings brought against any or all of the Indemnified Parties by any person claiming relief against any or all of the Indemnified Parties by reason of the manufacture, distribution, importation, labelling, storage, promotion, offering for sale, sale, supply or use of any Products by the Licensee or its Sub-Licensees, except to the extent that any such claims arise as a direct result of a breach of this Agreement by Fairtrade ANZ.
     4. For the avoidance of doubt, no indemnity is provided to the Licensee by Fairtrade ANZ pursuant to this Agreement or otherwise.
     5. Nothing in this paragraph shall restrict or limit either Party's general obligation at Law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.
2. Duration and Termination of Agreement
   1. Duration

This Agreement will commence on the Commencement Date and will continue in force for an indefinite term until terminated by either Party as set out in this paragraph 11.

* 1. Termination by Fairtrade ANZ
     1. Fairtrade ANZ may terminate this Agreement at any time by serving three months' written notice of termination on the Licensee.
     2. Fairtrade ANZ may terminate this Agreement at any time with immediate effect and without prejudice to its other remedies forthwith by notice in writing to the Licensee if:
        1. the Licensee commits a breach of any of the terms of this Agreement, or, where the breach is capable of remedy and notice has been given pursuant to paragraph 8.1 or 8.2, if the Licensee fails to remedy the breach within the specified timeframe;
        2. the Licensee is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed over its assets or takes or suffers any similar action in consequence of debt in any jurisdiction or ceases for any reason to carry on business;
        3. in the reasonable opinion of Fairtrade ANZ, the Licensee's use of the Mark will, or is reasonably likely to, bring the reputation of Fairtrade ANZ, Fairtrade International, FLOCERT, any NFO or the Mark into disrepute, or undermine the distinctiveness of the Mark, or in any way be a potential cause of confusion in the market;
        4. in the reasonable opinion of Fairtrade ANZ, information provided to Fairtrade ANZ by the Licensee pursuant to paragraph 7(c), or information otherwise obtained by Fairtrade ANZ, does or may affect the direct or indirect control of the business (in total or in part) of the Licensee; or
        5. the Licensee is also a Fairtrade Operator and:
           1. the Licensee commits a breach of the Certification Agreement; and/or
           2. the Certification Agreement expires or is terminated.
  2. Termination by the Licensee
     1. The Licensee may terminate this Agreement at any time by serving three months' written notice of termination of this Agreement on Fairtrade ANZ.
     2. The Licensee may terminate this Agreement at any time with immediate effect and without prejudice to its other remedies forthwith by notice in writing to Fairtrade ANZ if:
        1. Fairtrade ANZ commits breach of any of the terms of this Agreement, provided that if the breach is capable of remedy such notice must only be given in the event that Fairtrade ANZ having been notified of the breach has been given a reasonable opportunity to remedy it and has failed to do so; or
        2. Fairtrade ANZ is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed over its assets or takes or suffers any similar action in consequence of debt in any jurisdiction or ceases for any reason to carry on business.
  3. Consequences of termination
     1. Upon termination of this Agreement, the licence granted in paragraph 2.1(a) ceases, and, subject to paragraph 11.4(c), the Licensee must not make any use of the Mark for any reason, and must ensure that any Sub-Licensee or person under an Artwork Engagement immediately ceases to make any use of the Mark.
     2. Termination of this Agreement will not affect accrued rights and remedies at the time of termination, and in particular (without prejudice to that generality) the provisions of paragraphs 8, 13, 14, 18, 19, 20 and 21 will have effect notwithstanding termination.
     3. Subject to sub-paragraphs 11.4(e) and 11.4(f) and provided the Licensee has complied with its obligations under this Agreement, the Licensee may, for a period of not exceeding three months after the termination of this Agreement (***Sell-Off Period***), in respect of any stock of Ingredients and/or Products or unfulfilled orders on hand as at the date of termination of the Agreement (provided such stock of the Ingredients and/or Products which are the subject of the unfulfilled orders comply in all respects with Fairtrade Standards), sell such stock or fulfill such orders. However, the obligations of the Licensee and the rights of Fairtrade ANZ under this Agreement apply with full force and effect during the Sell-Off Period and only for the purpose of the Sell-Off Period.
     4. Upon expiration or termination of the Sell-Off Period, or upon termination of this Agreement pursuant to paragraph 11.2(b), the Licensee must:
        1. immediately withdraw all Products from supply, distribution and sale;
        2. not make any use of the Mark for any reason, and in particular cease using the Mark on and in relation to all Packaging and Advertising & Promotional Materials by either destroying the respective Packaging or Advertising & Promotional Materials that bear the Mark or by permanently removing, covering, obliterating the Mark by any method which permanently results in the Mark no longer being visible;
        3. notify Fairtrade ANZ in writing upon completion of the permanent destruction, removal, covering or obliteration of the Mark within thirty (30) days of the Termination Date or the Sell-Off Date, as the case may be. In no event may the Licensee assign, sell or otherwise give Products, Packaging and/or Advertising & Promotional Materials to a third party after the Termination Date or the Sell-Off Date (as the case may be) without first removing or otherwise rendering the Mark permanently invisible; and
        4. ensure that any Sub-Licensees or persons under Artwork Engagements immediately cease to make any use of the Mark and comply with this paragraph.
     5. In the event that any actions or omissions of the Licensee during the Sell-Off Period in using the Mark, in the opinion of Fairtrade ANZ, would otherwise breach paragraphs 3, 4, 5, 6 or 7, Fairtrade ANZ may provide notice to the Licensee terminating the Sell-Off Period with immediate effect and without prejudice to its other remedies, and instruct the Licensee to cease the relevant actions immediately. The Licensee must comply with such instructions and with the actions set out in 11.4(d)(i)-(iv) above.
     6. If Fairtrade ANZ has terminated this Agreement pursuant to paragraph 11.2(b), the Licensee is not entitled to the Sell-Off Period and the Licensee must immediately comply with the actions set out in sub-paragraphs 11.4(d)(i)-(iv) above.

1. Amendment of this Agreement / Variation
   1. Variation & Review
      1. This Agreement may only be varied in accordance with this paragraph 12 and paragraph 15 or by written agreement signed by the Parties.
      2. Paragraphs 12.1(c) to 12.2(c) inclusive are subject to paragraphs 12.3 and paragraph 15.
      3. Fairtrade ANZ will periodically review this Agreement as may be reasonably required to maintain adherence to Fairtrade Standards, to maintain the integrity of the Mark, and to further Fairtrade ANZ’s objectives, while having regard to the commercial necessities of the Licensee about which Fairtrade ANZ is made aware in the consultation process outlined in paragraphs 12.2(a) to 12.2(c).
   2. Consultation process
      1. Fairtrade ANZ will serve written notice on the Licensee of any proposed variation to this Agreement which will have a substantive effect on the rights and/or obligations of either Party (***Proposed Variation Notice***), and will invite consultation in good faith in relation to the Proposed Variation Notice for a specified period. In the event that the Licensee objects to any variation contained in the Proposed Variation Notice, the Licensee must inform Fairtrade ANZ of such objection within 30 days of service of the Proposed Variation Notice. Fairtrade ANZ is under no obligation to adopt any suggestions or to act on any objections made by the Licensee.
      2. After the end of the 30 day period referred to in sub-paragraph 12.2(a), Fairtrade ANZ will serve written notice of any variation to this Agreement to take effect in not less than three months from the date of such notice.
      3. Any subsequent objection to variations to this Agreement may be regarded by Fairtrade ANZ as a breach of the terms and conditions of this Agreement.
   3. Amendments to Schedules
      1. All amendments to this Agreement will be made pursuant to paragraphs 12.1(c) to 12.2(c) inclusive, with the following exceptions:
         1. Item 1.5 of Schedule 1 (Small Licensee) and Schedule 5 - Fairtrade ANZ Fee Schedule: Fairtrade ANZ will inform the Licensee in writing of any variations at least 3 months before they are applied.
         2. Item 2.1 of Schedule 3– Mark Guidelines: Fairtrade ANZ will notify the Licensee of any variations to this item (***Notice of Variation***), and allow the Licensee a period of at least 12 months within which the Licensee must make all changes to Packaging and Advertising & Promotional Materials necessary to comply with the Notice of Variation. During this period, the Licensee may continue to use the Mark as used immediately before the Notice of Variation. On expiration of this period, the Licensee must only use the Mark in accordance with the Notice of Variation.
         3. Item 1.3 of Schedule 1 – the trademark details listed can be amended from time to time to reflect changes in registration status and the Licensee will be notified accordingly.
      2. Notwithstanding paragraphs 12.1(c) to 12.2(c) inclusive, the Licensee acknowledges and agrees that:
         1. amendments made to any Fairtrade Standards will be made unilaterally by the Fairtrade Group; and
         2. it is the Licensee's responsibility to maintain its familiarity with the applicable Fairtrade Standards and will maintain such familiarity.
   4. Amendments due to prohibition or unenforceability
      1. Fairtrade ANZ will within three months of becoming aware that a provision in this Agreement is or may be prohibited or unenforceable, by written notice make such amendments to this Agreement or incorporate into the Agreement such revised terms as Fairtrade ANZ determines in its sole discretion to overcome the prohibition or unenforceability, while ensuring this Agreement satisfies the requirements of Fairtrade Standards, maintains the integrity of the Mark and furthers Fairtrade ANZ’s objectives.
      2. Any amendment made by Fairtrade ANZ pursuant to paragraph 12.4(a) will be taken to have been agreed upon by the Licensee and any objection may be regarded by Fairtrade ANZ as a breach of the terms and conditions of this Agreement, with the result that Fairtrade ANZ may in its sole discretion given notice to the Licensee terminating the Agreement with immediate effect in accordance with sub-paragraph 11.2(b)(i).
      3. In the interim period before any actions pursuant to sub-paragraphs 12.4(a) and 12.4(b) are completed, all other conditions of this Agreement will remain in force. The Licensee must do all things necessary to give effect to the amendments required pursuant to sub‑paragraphs 12.4(a) and 12.4(b).
   5. Modifications to Products

No proposed addition or variation of Products (a ***Modification***) by the Licensee is permitted unless the Licensee requests Fairtrade ANZ's approval for the Modification through Fairtrade Connect, and Fairtrade ANZ approves that Modification. Fairtrade ANZ must not unreasonably withhold such approval. Fairtrade ANZ must notify the Licensee of the outcome of the request through Fairtrade Connect within 2 weeks of receipt of the request.

1. Confidentiality
   * 1. Each Party must take all reasonable steps to protect all Confidential Information which is disclosed to or obtained by it pursuant to or as a result of this Agreement and must not divulge the same to any unauthorised person and must only allow access to the same to its own staff (and where appropriate to authorised representatives) where reasonably necessary to give effect to this Agreement.
     2. A Party must not use the Confidential Information of the other Party for a purpose other than as contemplated by this Agreement.
     3. The obligations of confidentiality under this paragraph 13 do not apply to any information or material which:
        1. was already known to the recipient Party prior to its receipt from the disclosing Party;
        2. was subsequently disclosed to the recipient Party lawfully by a person who did not obtain the same (whether directly or indirectly) under an obligation of confidence from the disclosing Party;
        3. was in the public domain at the time of receipt by the recipient Party or has subsequently entered into the public domain other than by reason of the breach of the provisions of this paragraph 13 or of any obligation of confidence owed by the recipient Party or by any of its Sub-Licensees to the disclosing Party; and / or
        4. is required to be disclosed by either Party by any competent legal authority or pursuant to any Law.
     4. Notwithstanding this paragraph 13, the release of certain information pertaining to the Licensee to relevant organisations and persons will be governed by the terms of the Licence Disclosure Statement, contained in Schedule 4.
2. Assignment and Delegation
   * 1. The Licensee may not assign, transfer, or in any other manner make over (***Assign***) to any person the benefit or burden of this Agreement.
     2. Fairtrade ANZ may, in its sole discretion, Assign all or any of its rights or obligations under this Agreement, and the Licensee must co-operate fully in relation to such Assignment, including, at the request of Fairtrade ANZ executing all documents necessary to give effect to such Assignment, including executing a novation agreement.
     3. The Licensee may delegate the Licence Fee payment, reporting, Packaging Artwork approval and product registration of Products to another organisation according to Schedule 6 subject to approval by Fairtrade ANZ. The Licensee remains responsible and liable for all delegated obligations.
3. Prohibition and Unenforceability
   * 1. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.
     2. Fairtrade ANZ will within three months of becoming aware that a provision in this Agreement is or may be prohibited or unenforceable, make amendments to this Agreement pursuant to sub-paragraph 12.4.
4. Notice
   * 1. Any notice, demand, consent or other communication (***Notice***) given or made under this Agreement:
        1. must be in writing and signed by the sender or a person duly authorised by the sender;
        2. must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand, email or fax to the address, email address or fax number in item 1.1 (as applicable) of Schedule 1 or the address, email address or fax number last notified by the intended recipient to the sender; and
        3. will be conclusively taken to be duly given or made:
           1. in the case of delivery in person, when delivered;
           2. in the case of delivery by post, two business days after the date of posting (if posted to an address in the same country) or seven business days after the date of posting (if posted to an address in another country);
           3. in the case of delivery by email, on the first to occur of:

receipt by the sender of an email acknowledgement from the recipient's information system showing that the Notice has been delivered to the email address stated above;

the time that the Notice enters an information system which is under the control of the recipient; and

the time that the Notice is first opened or read by an employee or officer of the recipient; and

* + - 1. in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4 pm (local time) it will be conclusively taken to have been duly given or made at the start of business on the next business day in that place.

1. No Waiver
   * 1. No waiver by Fairtrade ANZ of the performance of any of the Licensee's obligations under this Agreement will be granted by Fairtrade ANZ except in writing, referring expressly to this Agreement, bearing the date of such waiver, and (for the purpose of distinguishing it from any other such waivers made under this paragraph 17) bearing a sequential reference number applied to such waiver and signed for and on behalf of Fairtrade ANZ by an authorised signatory.
     2. No failure or delay on the part of either Party to exercise any right or remedy under this Agreement will be construed or operate as a waiver thereof nor will any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by Law or in equity.
2. Publicity
   * 1. The Licensee must not make any announcement, publication or publicity concerning this Agreement, the business of Fairtrade ANZ, Fairtrade International, FLOCERT or any NFOs, the Mark (during the continuance of this Agreement) or any Product (subject to the exercise by the Licensee of the rights granted pursuant to paragraph 2.1(a)) without the prior written consent of Fairtrade ANZ which consent will not be unreasonably withheld.
     2. When making any announcement or engaging in any publicity, the Licensee must use its best endeavours to avoid any association with, or endorsement or approval of, whether explicit or implied, Fairtrade ANZ or the Mark, whether related to this Agreement or not, which has not been approved in writing by Fairtrade ANZ in advance.
3. Further Assurances

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it and to protect Fairtrade ANZ's intellectual property rights.

1. Entire Agreement
   * 1. This Agreement constitutes the entire agreement between the Parties with respect to the matters dealt with in this Agreement and supersedes any previous agreement between the Parties in relation to such matters. Both of the Parties acknowledge that in entering into this Agreement they have not relied on any representation or warranty save as expressly set out in this Agreement.
     2. If the Licensee is also a Fairtrade Operator, and there is any inconsistency between the provisions of this Agreement and the provisions of the Certification Agreement, the provisions of this Agreement will prevail to the extent of any inconsistency and the provisions of the Certification Agreement must be construed accordingly.
2. Limits on Parties

This Agreement does not render either Party a partner, agent or employee of the other and no Party has the authority or power to bind, contract in the name of or create a liability against the other Party.

1. Dispute Resolution
   1. Fairtrade ANZ Complaints and Whistleblowing Policy

Without limiting paragraph 8 and any rights of termination Fairtrade ANZ has under this Agreement, if the Licensee wishes to make a complaint about a matter relating to or arising out of this Agreement, it may, but is not obliged to, make a complaint under the Fairtrade ANZ Complaints and Whistleblowing Policy. If it is not satisfied with the resolution of its complaint pursuant to the Fairtrade ANZ Complaints and Whistleblowing Policy, or if it does not wish to make a complaint pursuant to the Fairtrade ANZ Complaints and Whistleblowing Policy, it must notify Fairtrade ANZ of a dispute in accordance with paragraph 22.2.

* 1. Negotiation

Without limiting paragraph 8 and any rights of termination Fairtrade ANZ has under this Agreement, if there is a dispute between the Parties relating to or arising out of this Agreement, then within 10 business days of a Party notifying the other Party of a dispute, senior representatives from each Party must meet and use all reasonable endeavours acting in good faith to resolve the dispute by joint discussions.

* 1. Mediation

If the dispute between the Parties referred to in paragraph 22.2 is not resolved within 10 business days of notification of the dispute under paragraph 22.2, the Parties must submit the dispute to mediation, administered by the Resolution Institute.

* 1. Court proceedings

A Party may not commence court proceedings in relation to a dispute relating to or arising out of this Agreement until it has exhausted the procedures in this paragraph 22, unless the Party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

1. Interpretation
   1. Interpretation generally

The following rules apply unless the context requires otherwise.

* + 1. Headings are for convenience only and do not affect interpretation.
    2. Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
    3. Nothing in this Agreement is to be interpreted against a Party solely on the ground that the Party put forward this Agreement or a relevant part of it.
    4. The singular includes the plural, and the converse also applies.
    5. If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
    6. A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
    7. A reference to a paragraph or schedule is a reference to a paragraph or schedule.
    8. A reference to a Party to this Agreement or another agreement or document includes the Party's successors, permitted substitutes and permitted assigns (and, where applicable, the Party's legal personal representatives).
    9. A reference to legislation (including delegated legislation), or to a provision thereof, includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it, as the case may be.
    10. A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
    11. A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
    12. A reference to dollars and $ is to the currency as set out in item 1.4 of Schedule 1.
    13. A month means a calendar month.
    14. A reference to year is a reference to each successive period of 12 months, commencing on the Commencement Date.
    15. The definitions above apply to the terms used in the schedules to this Agreement, unless specified otherwise.
    16. Where any schedule conflicts with a term in the body of this Agreement, the term in the body of the Agreement prevails to the extent of the inconsistency.
  1. Interpretation of references to agreements or documents
     1. A reference to an agreement or document (including but not limited to any document referred to in Schedule 3) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
     2. For the avoidance of doubt, any document incorporated into this Agreement by reference (including but not limited to any document referred to in Schedule 3) may be amended from time to time. The requirements contained in such documents may be added, deleted, or otherwise modified. The Licensee is required to meet the requirements of any document incorporated into this Agreement by reference and is required to monitor pending and finalized revisions of such documents.

1. Law and Jurisdiction

This Agreement is governed by the Law of the jurisdiction as set out in item 1.2 of Schedule 1. In relation to it and related non-contractual matters each Party irrevocably submits to the non‑exclusive jurisdiction of the courts with jurisdiction there and waives any right to object to the venue on any ground.

EXECUTED in Victoria, Australia

|  |  |
| --- | --- |
| **EXECUTED** by **FAIRTRADE AUSTRALIA AND NEW ZEALAND LTD** in accordance with the *Corporations Act 2001(Cth):* | )  )  ) |
| Signature of Chief Executive Officer | Signature of Certification Manager |
| Molly Harriss Olson    Name of Chief Executive Officer    Date | Yasmin Duale    Name of Certification Manager    Date |
| **[EXECUTED** by **LICENSEE NAME**in accordance with the [*Corporations Act 2001 (Cth):****- or other relevant legislation****]* | )  )  ) |
| Signature of Director | Signature of **[Director/Secretary/witness]** |
| Name of Director    Date | Name of **[Director/Secretary/witness]** |

1. * + 1. Parties
          1. Fairtrade ANZ

Suite 312, Level 3  
838 Collins Street  
Docklands VIC 3008  
  
Telephone +61 3 9602 2225  
Facsimile +61 3 9602 1059  
Email [licensing@fairtrade.com.au](mailto:licensing@fairtrade.com.au)

* + - * 1. [Licensee name]

Telephone

Email

[Licensee address, phone, fax and email details]

* + - 1. Jurisdiction

Australia

* + - 1. Territory

|  |  |
| --- | --- |
| **Territory where Mark may be used** | **Status of Mark** |
| Australia | # 1612515 |
| New Zealand] | # 994615 |
|  |  |
|  |  |
|  |  |

* + - 1. Currency

Australian dollars

* + - 1. Small Licensee

A Small Licensee has:

* + 1. a maximum annual Net Sales Value of $25,000;
    2. less than $1 million in total annual turnover; and
    3. less than 10 full time employees.

1. 1. List of Licensed Products as at the Commencement Date

[insert]

1. 1. NFOs and Fairtrade Standards
      1. NFOs

The list of Fairtrade NFOs can be accessed at the following address: <http://www.fairtrade.net/fairtrade-organizations.html>

* + 1. Fairtrade Standards
       1. Mark Guidelines

The Mark Guidelines, as they apply to Ingredients and Products, are provided to the Licensee by Fairtrade ANZ prior to execution of this Agreement and are available upon request. They include:

* + - * 1. The FAIRTRADE Mark Guidelines;
        2. The FAIRTRADE Gold Mark Guidelines;
        3. The FAIRTRADE Cotton Mark Guidelines;
        4. The FAIRTRADE Cosmetics Mark Guidelines;
        5. The FAIRTRADE Timber Mark Guidelines;
      1. Fairtrade Trader Standard

The Fairtrade Trader Standard can be accessed at the following address: <https://www.fairtrade.net/standards/our-standards/trade-standard.html>

* + - 1. Fairtrade Product Standards

The Fairtrade Product standards can be accessed at the following address: <https://www.fairtrade.net/standards/our-standards.html>

* + - 1. Fairtrade ANZ Policies

The Fairtrade ANZ Policies can be accessed at the following address: <http://www.fairtrade.com.au/en-au/for-business/policies-and-standards>

1. 1. Licence Disclosure Statement

Fairtrade ANZ may disclose information, including Confidential Information, to the following organisations and persons or classes of people.

* + - * 1. To the public:

the Licensee’s name and contact information;

aggregated information about the Licensee's purchases and sales of Products, including:

benefits to Fairtrade Producers from such purchases and sales (including payment to Fairtrade Producers and Fairtrade Premium); and

information about purchases and sales volumes and payment to Fairtrade Producers (including Fairtrade Premium) by country and by Product,

provided that Fairtrade ANZ makes reasonable efforts to ensure that such publication is made in a way that does not allow trace back of the information to individual transactions.

* + - * 1. To Fairtrade International, FLOCERT and the NFOs: details of any decision in relation to any of the Licensee's applications for any Fairtrade ANZ trade mark licence.
        2. To members of the Fairtrade ANZ Certification Committee, Fairtrade International, FLOCERT and the NFOs:

details of stocks, purchases, sales, and manufacturing including prices and Fairtrade Premiums paid by the Licensee;

Flow of Goods Reports; and

* + - * 1. To buyers of Products, details of sales to them that were reported by the Licensee.
        2. To sellers of Products (including Fairtrade Operators), details of the purchases from them that were reported by the Licensee.
        3. To Fairtrade ANZ's lawyers all information as is necessary.

Without limiting Fairtrade International's right to use the information provided in accordance with (b) and (c) above, the Licensee acknowledges that Fairtrade International may use the information provided in accordance with (b) and (c) above to produce aggregated monitoring and evaluation reports and to review Fairtrade ANZ's compliance with any applicable codes.

1. 1. Fairtrade ANZ Fee Schedule
      1. Licence Fee
         * 1. The Licence Fee under this Agreement is:

a non-refundable minimum ***Annual Fee***, which amounts to:

$250 (plus GST) for Small Licensees; or

$500 (plus GST) for all other Licensees;

and

the sum of 2% of the Net Sales Value of all Fairtrade products (except Coffee Capsules and gold) and (if applicable) 0.5% of the Net Sales Value of Coffee Capsules, if this amount is more than the Annual Fee.

* + - * 1. Licensees will pay a pro‑rata Annual Fee on the Commencement Date which will be calculated by reference to the number of months remaining in that financial year. The Annual Fee will then be applied and invoiced annually on 1 July. The Annual Fee will be held against the first:

$250 (plus GST) for Small Licensees; and

$500 (plus GST) for all other Licensees

at the percentage(s) specified in 1(a)(ii) above of the Net Sales Value of the Licensee's sales of Products.

* + - * 1. If the Licensee complies with, and has been approved by Fairtrade ANZ under, the Commitment to Fairtrade Policy, which can be found at <http://www.fairtrade.com.au/en-au/for-business/policies-and-standards>, the portion of the Licence Fee in item (a)(ii) will be discounted by 25%. The Licensee must inform Fairtrade ANZ within 14 days if this discount criteria is no longer satisfied by the Licensee, at which date the fee will revert back to those referred to in item 1(a)(ii).
        2. **DELETE IF NOT APPLICABLE [**The portion of the Licence Fee in item (a)(ii) includes a discount of [\*] as recognition that the Licensee is a member of the World Fairtrade Organisation. The Licensee must inform Fairtrade ANZ within 14 days if this discount criteria is no longer satisfied by the Licensee, at which date the fee referred to in item 1(a)(ii) will revert back to 2%.
    1. Licence Fee payment and reporting
       1. Licence Fee accrual

The Licence Fee will accrue on a daily basis and is payable in arrears on sales up to and including each Report Day from the Commencement Date.

* + - 1. Flow of Goods Report
         1. Within 30 days of each Report Day, the Licensee must provide a report to Fairtrade ANZ relating to all transactions in connection with its trade in Products for the previous Reporting Period (***Flow of Goods Report***). The Flow of Goods Report must include any information requested by Fairtrade ANZ, which may include, but is not limited to, the following items in relation to each Product:

Sales reports detailing sales of Products during the preceding Reporting Period (or during the periods from the Commencement Date to the first Report Day, or to the Termination Date or Sell-Off Date as applicable from the preceding Report Day) and showing the quantity of Products sold, the price charged by the Licensee for the sale of those Products, any discounts or other rebates given by the Licensee in the sale of those Products, the turnover in respect of those sales and the Licence Fee due.

In the case of any approved Cross-Border Sales, the Licensee must report the sales of Products (per country) pursuant to the Cross-Border Sales separately from the sales report as described in item 2.2(a)(i) for the preceding Reporting Period (or during the periods from the Commencement Date to the first Report Day, or to the Termination Date or Sell-Off Date as application from the preceding Report Day). The report must show the quantity of Products sold in each country pursuant to the Cross-Border Sale, the price charged by the Licensee for the sale of those Products, any discounts or other rebates given by the Licensee in the sale of those Products, the turnover in respect of those sales and the Licence Fee due.

* + - * 1. The Licensee must:

keep proper and accurate books of account and records of items outlined in item (a), and store such records pursuant to any legal requirement to do so or for three years, whichever is the greater; and

allow Fairtrade ANZ or its appointed Auditor, (who must be trained and evaluated by Fairtrade ANZ or FLOCERT) reasonable access to the Licensee’s facilities to audit and take copies of or extracts from such books of account and records to enable it to check the accuracy of the information contained in the statements rendered pursuant to item 2.2(a).

* + - * 1. The supply of any information by the Licensee as part of these reporting arrangements set out in this item 2 will not preclude the right of on-site audit or desk audit given to Fairtrade ANZ in items 2.2(b) and (c) and will not preclude Fairtrade ANZ from disputing the content of any statement rendered pursuant to item 2.2(a). Any such dispute should must be resolved in accordance with paragraph 22.
      1. Reconciliation and invoicing
         1. Upon evaluation of the Flow of Goods Report by Fairtrade ANZ, Fairtrade ANZ will issue an invoice to the Licensee for payment of the Licence Fee. The invoice for the Licence Fee will be issued without prejudice to Fairtrade ANZ’s right to verify the reported information and to seek payment of any underpayment of Licence Fees in the future.
         2. The issued invoice for the Licence Fee pursuant to item 2.3(a) will be due to Fairtrade ANZ without deduction or set-off. The Licence Fee is subject to any government imposed taxes, such as GST, where required under any Australian or New Zealand Laws at the rate prevailing on the Report Day, and such taxes will be payable by the Licensee in addition to the Licence Fee.
      2. Delayed or non-payment
         1. Where any amount payable under this Agreement is not paid or is not paid in full within 30 days after the due date of invoice, that amount or the unpaid portion of that amount (as the case may be) bears interest at the Reserve Bank of Australia's base ratefrom the due date for payment until the date on which that payment is received by Fairtrade ANZ.
         2. **[**In addition to and without limiting item 2.4(a), where any amount payable under this Agreement is not paid or is not paid in full within 30 days after the due date of invoice, the Licensee forfeits any applicable discounts set out in [\*] of this Schedule 5 **- RETAIN IF THERE IS A DISCOUNT LISTED ABOVE. IF RETAINED, INCLUDE NUMBERING IN NEXT PARAGRAPH**
         3. In addition to and without limiting item**[s]** (a) **[and (b)]**, where any amount payable under this Agreement is not paid or is not paid in full within 30 days after the due date of invoice, such circumstances will constitute a breach of this Agreement by the Licensee.

1. 1. Delegation

The following responsibilities can be delegated:

* + 1. Licence Fee Payment
       - 1. The Licensee is the party liable for the Licence Fee required pursuant to paragraph 6 in the manner described in Schedule 5 of this Agreement.
         2. The Licensee ensures that each organization below shall effect payment of the Licence Fee for the Licensee’s Products on behalf of the Licensee until further notice. Such delegation of the payment shall only be allowed in cases where the Licensee buys finished (packaged and labelled) products from the organization.
         3. Fairtrade ANZ reserves the right to collect the Licence Fee from the Licensee anytime the organization has not paid the Licence Fee invoice according to the payment terms. Fairtrade ANZ will issue an invoice to the Licensee for immediate payment and issue a credit note to the delegated organization.
    2. Reporting
       - 1. The Licensee is responsible for providing Fairtrade ANZ or a certifier duly authorised by Fairtrade ANZ with the appropriate reporting according to Schedule 5 of this Agreement.
         2. The Licensee ensures that each organization below submits the appropriate reporting according to Schedule 5 of this Agreement for the Products to Fairtrade ANZ or a certifier duly authorised by Fairtrade ANZ on behalf of the Licensee until further notice. Such delegation of the reporting shall only be allowed in cases where the Licensee buys finished (packaged and labelled) products from the organization.
         3. Fairtrade ANZ or a certifier duly authorised by Fairtrade ANZ reserve the right to collect the reporting from the Licensee anytime the organization has not submitted the reports in time (30 days after the end of quarter).
    3. Packaging Approval
       - 1. The Licensee is responsible for the design and creation of Packaging and to obtain the Packaging Artwork approval according to paragraphs 3, 4 and 5 of this Agreement, including if the design of Packaging is delegated to a Sub-Licensee or a person under an Artwork Engagement.
         2. The Licensee ensures that each organization below will obtain the Packaging Artwork approval from Fairtrade ANZ for the Products on behalf of the Licensee until further notice. Such delegation regarding the duty to obtain the Packaging Artwork approval shall only be allowed in cases where the Licensee buys finished (packaged and labelled) products from the organization. The Licensee is responsible to make sure that the organization follows the instructions of Fairtrade ANZ in order not to infringe the Mark Guidelines. Instructions given by Fairtrade ANZ to the organization regarding the Packaging shall be binding for the Licensee.
         3. Fairtrade ANZ reserves the right to refuse further communication with the organization and refer directly to the Licensee regarding the Packaging Artwork approval at all times.
    4. Product Registration
       - 1. The Licensee must submit to Fairtrade ANZ through Fairtrade Connect any Products, or Modifications, to which it wishes to apply, or in relation to which it wishes to use the Mark.
         2. Fairtrade ANZ reserves the right to refuse further communication with the organization and refer directly to the Licensee regarding the composition of the Products and approval of any Modification at all times.
    5. List of Agreed Delegations
       - 1. Below is a list of the delegations agreed, if any.

List of organizations to which the Licensee has delegated responsibilities according to above articles:

|  |  |  |  |
| --- | --- | --- | --- |
| **FLO-ID** | **Name and Function of Organization** | **Responsibility Delegated**  **1,2,3,4** | **Product / Packaging** |
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* + - * 1. The Licensee commits to inform Fairtrade ANZ immediately of any changes in relation to its contractual relationship with any of the organizations mentioned above.