

IDI Resources: Sample Agreements

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[Confidentiality Agreement](#)

[Reciprocal Confidentiality Agreement](#)

[Unrestricted Exclusive Licence Agreement \(Practice agreement.\)](#)

[Exclusive Licence \(Individual designer agreement\)](#)

[Exclusive Licence](#)

[Royalty Agreement](#)

Confidentiality Agreement

This document is based on BNO's Specimen Confidentiality Agreement, made available to the IDI via our membership of BEDA. This document is featured by IDI as an inspiration. IDI takes no responsibility for the contents of the following specimen. Model contracts, agreements, and other samples are available exclusively to members of BEDA and their member organisations.

The undersigned:

1.

.....
having its registered office in [insert full address],
referred to below as the 'Designer';

and

2.

.....
having its registered office in [insert full address],
legally represented by its [position], [Mr/Ms/Mx/Title]
.....,
referred to below as the 'Interested Party';

Whereas:

- the Designer has made a design or concept related to ,
as described in more detail in the Appendices to this Agreement [xx to xx], referred to below
as the 'Design' (give as accurate a description as possible without disclosing the distinctive
features);
- the Interested Party has stated that it wishes to acquaint itself with the Design in order to
discuss or look into the feasibility of commercial exploitation and collaboration; and
- it is in the Designer's interest that the Design remains confidential as yet and the Designer is
therefore prepared to show the design only after the Interested Party has signed this
Agreement;

Hereby agree as follows:

1. The Designer will show the Design and the Attachments to this Agreement to the Interested
Party after signature of this Agreement [at a meeting to be held on
.....

in the workplace/office of

When the Design has been shown, the Interested Party [OR: both parties] will sign a
copy/drawing/photograph of the Design for the Designer's benefit.

2. Unless the Designer has given written permission for disclosure, the Interested Party will
keep the Design and all information relating thereto confidential for a period of five years. For
the sole purpose of examining and discussing with the Designer the feasibility of commercial
exploitation and collaboration, the Interested Party may disclose the Design and the
information relating thereto to a selected number of their employees.
3. The Interested Party undertakes to take every measure necessary to ensure that their
employees keep the Design and all information relating thereto confidential in accordance
with the provisions of the preceding Article.

Reciprocal Confidentiality Agreement

This document is based on BNO's Specimen Reciprocal Confidentiality Agreement, made available to the IDI via our membership of BEDA. This document is featured by IDI as an inspiration. IDI takes no responsibility for the contents of the following specimen. Model contracts, agreements, and other samples are available exclusively to members of BEDA and their member organisations.

The undersigned:

1.
.....
having its registered office in [insert full address],
referred to below as the 'Designer';

and
2.
.....
having its registered office in [insert full address],
legally represented by its [position], [Mr/Ms/Mx/Title]
.....
referred to below as the 'Interested Party';

Whereas:

- the Designer has made a design (or concept, invention, product idea, production method, etc.) related to....., as described in more detail in the Appendices to this Agreement [xx to xx], (give as accurate a description as possible without disclosing the distinctive features);
- the Interested Party has stated that it wishes to discuss or look into the feasibility of collaboration or commercial exploitation with the Designer;
- the Designer will make the Design and the information related to it (referred to below as the 'Design') available to the Interested Party and the Interested Party will make knowledge and information (referred to below as 'Information') available to the Designer for that purpose; and
- it is in the Parties' interest to keep the Design and the Information a secret;

Hereby agree as follows:

1. The Parties will give each other access to the Design and the Information or will make the same available to each other after signature of this Agreement [at a meeting to be held on in the workplace/office of
If the Design and/or the Information is depicted in a written form (photograph/drawing/copy) the Parties will sign the same and attach it to this Agreement as an Appendix.
2. Unless the party providing the Design/Information has given written permission, the party receiving the Design/Information will keep the same confidential for a period of five years and will not make any statement on or pass on the same to any third parties. The party receiving the Design/Information may disclose the same to a selected number of their employees for the sole purpose of examining and discussing the feasibility of commercial exploitation and collaboration in respect of the Design.

3. The Parties undertake to take every measure necessary to ensure that their employees keep the Design and the Information confidential in accordance with the provisions of the preceding Article.
4. The duty of confidentiality will also apply to any of the elements of the Design or the Information that carry no intellectual property rights.
5. The provisions of Articles 2 to 4 of this Agreement will not apply if and provided that the party receiving the Design/Information can prove that all or part of the Design/Information:
 - a. I. was already known to them before it was shown to them by the party providing the Design/Information; or
 - b. II. was already in the public domain on the date when it was shown to them by the party providing the Design/Information; or
 - c. III. comes into the public domain, otherwise than by any act of the party receiving the Design/Information, after the date on which it was shown to them by the party providing the Design/Information.
6. If a circumstance as referred to in Article 5(a) occurs, the party receiving the Design/Information must notify the party providing the Design/Information of that circumstance in writing promptly but no later than two workdays after the party providing the Design/Information has shown them the same, specifying relevant proof. The other party must treat such proof as confidential.
7. If a circumstance as referred to in Article 5(b) or (c) occurs, the party receiving the Design/Information must notify the party providing the Design/Information of that circumstance in writing promptly but no later than ten workdays after that circumstance has come to their knowledge, specifying the source of their information.
8. The Interested Party must inform the Designer within days after the Design has been shown to them whether they wish to continue negotiating on possible collaboration and/or commercial exploitation.
9. If the Interested Party declines to continue negotiating as referred to in the preceding paragraph, they must ensure that all models and materials entrusted to them are returned to the Designer within days after announcing their decision and the Designer must ensure that the Information entrusted to them is returned.
10. If the Interested Party has stated that they have no interest in, or if the parties fail to reach agreement on the conditions of, possible collaboration and/or commercial exploitation, the Interested Party will not use or commercially exploit the Design or take any further action whatsoever in respect of the Design during a period of five years after signature of this Agreement, unless an agreement to that effect has been concluded with the Designer.
11. In the event of breach of their duty of confidentiality and/or breach of their duty to refrain from use, the party receiving the Design/Information will forfeit an immediately payable penalty of for each such breach and for each day that such breach continues unremedied, entirely without prejudice to the right of the party providing the Design/Information to demand compensation for the loss they has actually incurred.
12. This Agreement is governed by the legislation applicable in the country of residence of the Designer. Any disputes between the Designer and the Interested Party will be submitted to the court having jurisdiction in the district in which the Designer has its registered office or the court having jurisdiction by law, at the Designer's option.

Agreed and executed in duplicate originals:

in on

.....
The Designer
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.....
The Interested Party

Unrestricted Exclusive Licence Agreement (Design Practice Agreement)

This document is based on BNO's Specimen Exclusive Licence Agreement, made available to the IDI via our membership of BEDA. This document is featured by IDI as an inspiration. IDI takes no responsibility for the contents of the following specimen. Model contracts, agreements, and other samples are available exclusively to members of BEDA and their member organisations.

The undersigned:

1.

.....,
having its registered office in [insert full address],
referred to below as the 'Design Practice';

and

2.

.....,
having its registered office in [insert full address],
legally represented by its [position], [Mr/Ms/Mx/Title]
.....,
referred to below as the 'Client';

Whereas:

- the Design Practice is the author of
[specify exactly and attach a picture to this agreement if necessary], referred to below as the 'Design';

and

- the Client has stated that it wishes to obtain an exclusive licence for the Design;

Hereby agree as follows:

1. The Design Practice hereby authorises the Client to reproduce and make public the Design without any restrictions. The copyright will continue to vest in the Design Practice.
2. In consideration of the grant of this licence the Client will pay the Design Practice the sum of (VAT excluded). This licence will not take effect until the Design Practice has received full payment of the consideration.
3. This licence is given to the Client exclusively and the Design Practice may not authorise any third party to make public or to reproduce the Design.
4. The Design Practice will transfer to the Client all the materials required by the Client, including the relevant digital files.
5. In the event of infringement of the Design Practice's rights in the Design, the Design Practice will, if it so wishes and in order to protect and maintain the Client's rights under this Agreement against third parties, authorise the Client to exercise and enforce its rights arising from the Design Practice's copyright and to that end at its own expense to take action in or out of court in the Design Practice's name. In all such cases the parties will provide each other with all particulars and information required.

Unrestricted Exclusive Licence (Individual designer agreement)

This document is based on BNO's Specimen Unrestricted Licence Agreement, made available to the IDI via our membership of BEDA. This document is featured by IDI as an inspiration. IDI takes no responsibility for the contents of the following specimen. Model contracts, agreements, and other samples are available exclusively to members of BEDA and their member organisations.

The undersigned:

1.

.....,
having its registered office in [insert full address],
referred to below as the 'Designer';

and

2.

.....,
having its registered office in [insert full address],
legally represented by its [position], [Mr/Ms/Mx/Title]
.....,
referred to below as the 'Client';

Whereas:

- the Design Practice is the author of
[specify exactly and attach a picture to this agreement if necessary], referred to below as the 'Design';

and

- the Client has stated that it wishes to obtain an exclusive licence for the Design;

Hereby agree as follows:

1. The Designer hereby authorises the Client to reproduce and make public the Design without any restrictions. The copyright will continue to vest in the Designer.
2. In consideration of the grant of this licence the Client will pay the Designer the sum of EUR(VAT excluded). This licence will not take effect until the Designer has received full payment of the consideration.
3. This licence is given to the Client exclusively and the Client may not authorise any third party to make public or to reproduce the Design.
4. The Designer will transfer to the Client all the materials required for the Client, including the relevant digital files.
5. In the event of infringement of the Designer's rights in the Design, the Designer will, if they so wish and in order to protect and maintain the Client's rights under this Agreement against third parties, authorise the Client to exercise and enforce their rights arising from the Designer's copyright and to that end at their own expense to take action in or out of court in the Designer's name. In all such cases the parties will provide each other with all particulars and information required.

Exclusive Licence

This document is based on BNO's Specimen Exclusive Licence Agreement, made available to the IDI via our membership of BEDA. This document is featured by IDI as an inspiration. IDI takes no responsibility for the contents of the following specimen. Model contracts, agreements, and other samples are available exclusively to members of BEDA and their member organisations.

The undersigned:

1.

.....,
having its registered office in [insert full address],
referred to below as the 'Designer';

and

2.

.....,
having its registered office in [insert full address],
legally represented by its [position], [Mr/Ms/Mx/Title]
.....,
referred to below as the 'Licensee';

have taken the following into consideration when entering into the Agreement:

- The Designer is the maker of hereinafter to be referred to as: "the Design". An illustration of the Design is attached to this Agreement as an Annex.
- The Licensee has indicated that it wishes to acquire a licence for the Design, which licence shall be provided by the Designer under the following terms and conditions.

The parties have agreed as follows:

1. The Designer hereby grants permission to the Licensee to reproduce and disclose the Design as described in Article 2. The copyright shall continue to be held by the Designer.
2. The licence granted in Article 1 shall be limited to use of the work:
 - for a period of [.....]*, commencing on [.....]*;
 - in the following countries: [.....]*;
 - in the following applications/media: [.....]*;
 - for the following print run: [.....]*;
 - in connection with the purpose for which the instruction has been furnished, to wit: [.....]*;
 - other limitations: [.....]*.

If none of the options are ticked or filled in, the use shall be limited to the first intended use agreed on in the instruction.

3. The Licensee shall pay the Designer a fee (exclusive of VAT) for granting the licence, to wit:
 - one-off: EUR [.....]*
 - EUR [.....]* per [..... year/country/application/medium/print run]*;
 - other: [.....]*.

If a fixed amount has been agreed on as a periodic licence fee, the Designer shall be entitled to index this each year.

4. The licence granted to the Licensee shall be:
 - exclusive; the Designer shall not grant permission to third parties to disclose or reproduce the Design;
 - non-exclusive; the Designer shall be entitled to grant permission to third parties to disclose or reproduce the Design.
5. The licence shall not be deemed to have been granted until the fee has been received by the Designer.
6. Insofar as necessary, the Designer shall furnish the Licensee with the materials needed by the Licensee, including, where appropriate, the relevant digital files. The fee for this
 - shall be [EUR]*;
 - shall be included in the licence fee referred to in Article 3;
 - is not applicable (materials/files shall not be furnished)
7. In the event of infringement by third parties of the rights to the Design held by the Designer, the Designer shall, if desired, in order to protect and enforce the rights accruing to the Licensee under this Agreement, grant the Licensee authority to exercise the rights ensuing from the copyright and, to that end, take action at its own expense and in the Designer's name, both in and out of court. The parties shall furnish each other with all necessary information in regard to any measures for this purpose.
8. The following provisions shall apply with respect to making changes to the Design:
 - the Licensee may not make any changes to the Design without the Designer's permission. The Designer may not refuse such permission if this would be unreasonable. If a change is desired by the Licensee, the Licensee must give the Designer the first opportunity to carry out this change. A fee shall be charged for this, based on the fee rates normally charged by the Designer.
 - the Licensee may make changes to the Design without the Designer's permission, subject to the Designer's guidelines/instructions.
 - the Licensee may make changes to the Design as it sees fit, without the Designer's permission.
9. With regard to any reproduction or disclosure of the Design, as well as publicity surrounding the Design, the Licensee shall
 - ensure that the Designer's name is mentioned, in a manner to be agreed on further with the Designer.
 - not (or no longer) mention the Designer's name.
10. With due consideration of the Licensee's interests, the Designer shall be entitled to use the Design for their own promotion or publicity.
11. Miscellaneous provisions:
 - not applicable
 -
 -
 -
 -
12. The licence may be terminated (early or otherwise) in whole or in part by the Designer through notice of termination or rescission if the Licensee:
 - a. despite having been provided a notice of default with a reasonable period for performance, still does not fulfil an obligation under this Agreement;
 - b. does not use or no longer uses the Design;
 - c. is a natural person and dies, or is a legal entity and is dissolved;
 - d. is declared insolvent/bankrupt or requests a suspension of payments or files for bankruptcy;

- The Designer is the maker of [describe precisely, and possibly attach illustration to the Agreement]*, hereinafter to be referred to as: “the Design”.]*
- The Licensee is a company which
- The Licensee wishes to acquire an exclusive licence for the Design, in order to be able to bring the Design into production and market it.

The parties have agreed as follows:

1. Licence
 - 1.1. The Designer shall grant the Licensee permission to exploit the design, through the production and sale of products based on the Design, as well as to disclose the Design for publicity purposes to support sales. An illustration of the Design and a specification of the products falling under this licence are included in Annex A.
 - 1.2. This licence shall be limited geographically to:
..... [for example: the Netherlands, Benelux, European Community etc.]*
 - 1.3. This licence shall be exclusively granted to the Licensee for the territory referred to in the previous paragraph. The Designer shall not grant permission to third parties to exploit, disclose or reproduce the Design.

Alternatively, for a non-exclusive licence:

This licence shall be granted to the Licensee on a non-exclusive basis for the territory referred to in the previous paragraph. The Designer shall be entitled to grant permission to third parties to disclose or reproduce the Design.

- 1.4. In consultation with the Designer, the Licensee shall be entitled to furnish sub-licences to third parties for the production, distribution and sale of the Design within the territory referred to in Article 1.2, subject to all of the provisions in this Agreement, in particular, those in Article 2. Otherwise, the Licensee may not transfer this Agreement (or any right under it) to third parties without the Designer’s written permission.
 - 1.5. If the Licensee does not fulfil an obligation under this Agreement, all rights granted by the Designer to the Licensee shall be suspended until these obligations have in fact been fulfilled. The Licensee shall not (or no longer) be permitted in that case to use the Design furnished.
 - 1.6. With due consideration for confidential information about the Licensee’s business, the Designer shall, within reasonable limits, be entitled to use the Design for their own promotional purposes. Optional:
 - 1.7. The Designer may make adaptations of the Design, which shall not fall within the scope of this Agreement.
2. Production and distribution
 - 2.1. The Designer shall furnish the necessary design sketches and information to the Licensee, so that the latter is able to produce a prototype. The Designer shall evaluate the prototype and assist the manufacturer in the production of the Design. With respect to such assistance, the parties shall agree on a fee based on the Designer’s normal hourly rates.
 - 2.2. The Licensee shall be responsible for producing, selling and distributing the Design and shall bear all the costs related to this.
 - 2.3. The Licensee shall comply with the agreements which the parties, where appropriate, have made regarding the quality of the products, the manner of sales promotion and the market in which the product shall be distributed.

- 2.4. The Designer shall not bear any product liability whatsoever. Liability vis-à-vis third parties for any defects in the Design shall be borne by the Licensee.
 3. The Licensee's obligations
 - 3.1. The Licensee shall ensure that the Design is brought into production within six months of signing this Agreement and that it will continue to be exploited in a normal manner after this. Optional: This shall mean that, in the first years, the Licensee shall sell copies of the Design per year and copies per year in subsequent years. After a total of copies have been sold by the Licensee or a period of years has lapsed since the Agreement was signed, the target of copies per year shall be reduced to copies.
 - 3.2. In consultation with the Designer, the Licensee shall ensure that the Designer's name is stated on or with the Design, packaging and
 - 3.3. Unless it receives permission from the Designer, the Licensee shall not produce, sell or distribute any designs which are very similar to or cause confusion regarding the designs and products falling under this Agreement.
4. Fees
 - 4.1. The Licensee shall pay the Designer a fee of, exclusive of VAT for creating the Design [in accordance with the offer dated]
 - 4.2. Besides the amount referred to in the previous paragraph, the Licensee shall pay a royalty fee to the Designer of % per product sold, calculated on the net sale price. "Net sale price" shall mean the [net product price ex factory/net consumer sales price]*, exclusive of VAT, packaging and shipping costs. VAT shall be added to the royalty fee.
 - 4.3. Within four weeks of signing this Agreement and in January of each subsequent year, the Licensee shall pay the Designer a non-reclaimable advance of for the royalties to be paid for that year. This advance may only be set off against royalties owed for the year for which the advance has been furnished.
 - 4.4. The Licensee shall transfer a royalty fee for all products sold by it, irrespective of whether intellectual property protection may be invoked in the area concerning the licence.
5. Statement and itemization
 - 5.1. Within three weeks after each calendar quarter, the Licensee shall provide the Designer a properly substantiated and well-organised statement which includes the relevant quarterly information for the products sold and the amounts regarding the royalties to which the Designer is entitled. Optional: Based on this summary, the Designer shall send an invoice, without prejudice to their right to an audit as referred to in Article 5.3.]*
 - 5.2. The fee to which the Designer is entitled for a certain quarter shall be paid within one month [after that quarter ends/after the date of the invoice sent by the Designer]*. If, after this period expires, the Designer still has not received the payment (or not in full), the Licensee shall be in default and shall owe interest equal to the statutory interest. Any costs incurred by the Designer, such as litigation costs and court and out-of-court costs, including the costs for legal assistance, bailiffs and collection agencies incurred in connection with late payments, shall be paid by the Licensee. The out-of-court costs shall be set at at least 10% of the invoice amount, with a minimum of, exclusive of VAT.
 - 5.3. In case of reasonable doubt, the Designer shall be entitled to have the Licensee's reports and statements audited at most once a year by a registered or other accountant to be designated by the Designer. If irregularities deviating more than 2% or are discovered, the costs of this audit shall be paid by the Licensee.

- 5.4. The Designer's exercise of the right referred to in the previous paragraph shall not suspend the Licensee's payment obligations.
- 5.5. The Licensee shall not be entitled to any set-off beyond what has been provided for in this Agreement.
6. Intellectual and industrial property rights
 - 6.1. The Designer hereby warrants that he/she is the maker of the Design, and, if it
 - 6.2. Any intellectual property rights to which the Design is subject or which may be created in respect of the Design shall be held by the Designer.
 - 6.3. The Licensee is entitled, but not obliged, to file the Design as a model for the countries [for example, Benelux, European Community – this may be more limited than 1.2]* at its own expense and in the Designer's name. This shall also apply to a trademark or patent if this is applicable to the particular Design.
 - 6.4. The Licensee may not make changes to the Design without the Designer's written permission. The use of materials indicated and the scale/dimensions of the Design shall expressly be considered part of the Design in this sense.
 - 6.5. If changes are made to the Design with due observance of the previous paragraph, the Designer shall continue to be the sole owner of the Design, both in its altered and unaltered forms.
 - 6.6. The Licensee shall not dispute the Designer's rights referred to in this Article in any manner whatsoever.
7. Enforcement of rights
 - 7.1. The parties shall keep each other apprised and inform each other as soon as possible of any competing activity by rival companies which they encounter, or of infringement of the Designer's rights or the Licensee's exploitation rights.
 - 7.2. 7.2 The Designer hereby authorises the Licensee to enforce the rights to the Design which the Designer holds and to claim compensation and surrender of profits in the event such rights are infringed. The Licensee shall have authority to do this at its own expense on behalf of the Designer and on its own behalf, both in and out of court. The parties shall furnish each other with all necessary information in regard to any measures for this purpose.
 - 7.3. The Designer shall be entitled to 40% of the proceeds from any damage claim awarded or paid to the Licensee, after deduction of any court and out-of-court costs and costs for legal assistance, insofar as the infringing party is not ordered to pay these costs.
 - 7.4. The Designer shall not be liable if the Design turns out to infringe third-party rights, insofar as the Designer did not know or should not have known about the existence of these rights when the Design was made. Unless agreed in writing, the Designer shall not be required to conduct an investigation into existing third-party intellectual or industrial property rights.
 - 7.5. If it is nevertheless established that the Design infringes third-party rights, the parties shall consult with each other, and, if desired, the Designer shall cooperate in modifying the existing Design, in order to stop the infringement.
8. Duration of the Agreement and manner of termination
 - 8.1. This Agreement has been entered into for an indefinite period of time.
Alternatively:
This Agreement has been entered into for a period of years, and may be extended each time by a period of The Licensee shall inform the Designer in writing of its desire to extend the Agreement no later than 90 days before the term expires.

ANNEX A: Illustration of designs + description of products

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