

**METS IGNITED IP MASTERCLASS**

**SAMPLE PROPOSED BASIS OF AGREEMENT (PBA)**

**The following document is a sample only of typical terms that might be included in a Proposed Basis of Agreement (PBA)**

**Obviously such terms will vary from cases to case, and expert input should be sought in preparing a document to suit the particular circumstances.**

**The PBA is intended to outline the key terms in simple English of a more formal Licence Agreement. The PBA can be useful in making submissions to senior management, and can provide an excellent starting point for drafting the more formal agreement.**

## **PROPOSED BASIS OF AGREEMENT**

1. **PARTIES:**  
ABC Australia Pty Ltd (“Licensor”)  
XYX USA Inc (“Licensee”)
2. **SUBJECT MATTER:**  
Licensor’s patent rights, know-how and technical assistance for the establishment of production facilities for the manufacture of novel material (“the Material”).
3. **AREA:**  
North America, that is, USA, Canada, Mexico (“the Territory”).
4. **TYPE:**  
An exclusive licence to make, use and sell the Material in the Territory.  
No sub-licensing rights.
5. **PERIOD:**  
Until the last to expire of Licensor’s patents, unless sooner terminated.
6. **LICENSOR’S RESPONSIBILITIES:**
  - (a) To provide all relevant existing and future information, which it has the right to disclose, to enable Licensee to utilize fully its rights to manufacture, use and sell the Material.
  - (b) At its own expense, and subject to availability of appropriate personnel, to assist Licensee as may be reasonably required in connection with the initial installation and commissioning of facilities to manufacture the Material.
  - (c) After establishment of facilities to manufacture the Material, and as may be reasonably required, provide assistance to Licensee on a consulting fee basis together with out-of-pocket expenses.
  - (d) To bear all costs and fees payable in respect of any patent rights licensed by Licensor under Item 2.

7. **LICENSEE'S RESPONSIBILITIES:**

- (a) To use its best endeavors to make use and sell the Material, and to market Material to potential customers.
- (b) As soon as reasonably possible, and at its own expense, to place orders for the supply of all equipment required for the production of Material.

8. **TECHNICAL INTERCHANGE:**

- (a) Each party shall promptly advise the other of any information or improvements developed or acquired by that party relating to the Material, and Licensor shall have a world-wide royalty free, non-exclusive licence, with the right to grant sub-licences, in respect of such information and improvements, and if Licensor grants such sub-licences, the parties shall meet to agree on appropriate monetary remuneration in recognition of Licensee's technical contribution.
- (b) Each party shall be entitled to have its representatives visit the facilities of the other party at reasonable times and intervals. Related travelling and living expenses incurred by the visiting party shall be at that party's cost.

9. **FINANCIAL:**

Licensee agrees to:

- (a) Pay the Licensor \$US xx,000 on signing the Agreement.
- (b) Pay royalties calculated at the rate of 25% of the Net Invoice Price of Material.

In addition, for calendar years 202x,202y, and 202z and each year thereafter, if the Licensor does not receive royalties based on sales of at least 1000, 1500, and 2000kg of Material, respectively, then the Licensor shall have the right to convert the exclusive licence to a non-exclusive basis.

10. **OTHER USUAL CLAUSES:**

- Confidentiality of information.
- Licensor not responsible and indemnified by Licensee for any claims or damages relating to the Material.
- Either party to have the right to terminate the Agreement where it is breached by the other Party.
- Resolution of Disputes, Arbitration
- Address for services of notices by either party.
- No representations or warranties.
- Governing law.