

DATE

2017

(1) [ITTF Asia Pacific Pte Ltd]

(2) [Manufacturer/ distributor]

**Manufacturing and Supply
Agreement relating to TTX
Equipment**

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PARTIES

- (1) [ITTF Asia Pacific Pte Ltd] incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the 'Licensor'); and
- (2) [FULL COMPANY NAME] incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the 'Licensee').

RECITALS

- (A) The ITTF owns all rights in and to the discipline of TTX and has granted to the Licensor all rights relating to the commercialisation of TTX, including all necessary rights to sub-license the TTX Mark.
- (B) Subject to fulfilling the relevant requirements set out in the TTX Equipment Approval Scheme, the Licensee wishes to use the TTX Mark in the Territory in relation to [the manufacture and supply of]/[the supply of] TTX Equipment and the Licensor is willing to grant to the Licensee a non-exclusive licence to use the TTX Mark on the terms and conditions set out in this Agreement.
- (C) Capitalised words and expressions used in these Recitals shall have the meanings given to them in Clause 1.1.

OPERATIVE PROVISIONS

1. Definitions and interpretation

1.1 The following definitions and rules of interpretation apply in this Agreement:

'Approval'	approval of TTX Equipment in accordance with the TTX Equipment Approval Scheme (and the term 'Approved' shall be interpreted accordingly);
'Approval Fee'	has the meaning given to it in the TTX Equipment Approval Scheme;
'App Sales Commission'	has the meaning given to it in Clause 10;
'Business Day'	a day other than a Saturday, Sunday or public holiday in [] when banks are open for business there;
'Effective Date'	[the date of this Agreement OR [DATE]];
'Fees'	has the meaning given to it in Clause 10;
'Fines'	has the meaning given to it in the TTX Equipment Approval Scheme;
'Group'	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company;

'GST'	goods and services tax or any equivalent tax chargeable in Singapore or elsewhere;
'Initial Period'	has the meaning given to it in Clause 16;
'ITTF'	the International Table Tennis Federation, an association organised and established under the Swiss Civil Code, with its registered address at Chemin de la Roche 11, 1020 Renens/Lausanne, Switzerland, the internationally recognised world governing body of Table Tennis;
'License Fee'	the annual License Fee payable on a monthly basis to the Licensor by the Licensee as set out in Clause 10.2 and Schedule 5;
'Net Sales Price'	<p>the actual invoiced price in an arm's-length transaction of any item of TTX Equipment, less, to the extent identified on the invoice, any costs of packing, insurance, transport, delivery, VAT and any other government taxes, duties or levies, and trade discounts and other allowances granted, provided that where any item of TTX Equipment is:</p> <p>(i) sold other than in an arm's-length transaction; or</p> <p>(ii) sold or otherwise supplied to any company in the Licensee's Group;</p> <p>the Net Sales Price of each such item of TTX Equipment shall be deemed to be the Net Sales Price which would have been applied under this agreement, had such item of TTX Equipment been transferred to an independent arm's-length customer;</p>
'Penalties'	has the meaning given to it in the TTX Equipment Approval Scheme;
'Quality Inspection'	has the meaning given to it in the TTX Equipment Approval Scheme;
'Quarterly Periods'	the periods of three months commencing on 1 January, 1 April, 1 July and 1 October respectively;
'Territory'	[TERRITORY] ;
'Testing Fees'	has the meaning given to it in the TTX Equipment Approval Scheme;
'TTX'	the new discipline of Table Tennis currently known as 'Table Tennis X' or 'TTX' and officially created, approved recognised and regulated by the ITTF;
'TTX App'	[the official ITTF-endorsed TTX application designed for internet-enabled mobile devices, tablets and other platforms through which users may engage in TTX activities including to view and purchase TTX Equipment from licensed re-sellers such as the Licensee;
'TTX Brand Manual'	the official ITTF publication setting out the TTX brand identity including guidelines prescribing the permitted form and manner

in which the TTX Mark may be used, a copy of which is attached to this Agreement and initialled by the parties for the purposes of identification, including any amendments or additions notified in writing by the Licensor to the Licensee from time to time;

'TTX Equipment'	the equipment listed in Schedule 1;
'TTX Equipment Approval Scheme'	the process for testing and certifying that equipment to be marketed and used as officially approved TTX Equipment conforms to the technical standards set by the ITTF, a copy of which is attached at Schedule 4;
'TTX List'	the official, published list of TTX Equipment which has active Approval;
'TTX Mark'	the trademarks set out in Part 1 - Trade mark(s) of Schedule 2, including the listed registrations and applications and any registrations which may be granted pursuant to those applications and the various mascots, emblems, legends, logos, signs, representations, marks, trade names, insignia, and service marks denoting or identifying TTX as may be revised or modified from time to time in accordance with this Agreement and as set out in the TTX Brand Manual.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **'person'** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a **'company'** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 A reference to a **'holding company'** or a **'subsidiary'** means a holding company or a subsidiary (as the case may be) as defined in section 5 of the Companies Act (Chapter 50).
- 1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 This agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.10 A reference to **'writing'** or **'written'** includes fax and email.
- 1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.12 Any reference to a Singaporean legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than Singapore, be deemed to include a reference to that which most nearly approximates to the Singaporean legal term in that jurisdiction.

1.13 A reference to '**this Agreement**' or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.

1.14 Any words following the terms 'including, include, in particular, for example' or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. **TTX Equipment Approval**

2.1 The Licensee shall comply with the procedure set out in the TTX Equipment Approval Scheme for approval of any TTX Equipment which it is proposing to manufacture and or sell under the license granted in this Agreement.

2.2 The licence granted hereunder is subject to the relevant TTX Equipment having been Approved and subject also to such Approval, where necessary, having been renewed and not withdrawn or suspended in accordance with the provisions of the TTX Equipment Approval Scheme. No licence hereunder is granted in respect of any TTX Equipment which has not been Approved and any licence granted hereunder shall immediately be revoked in respect of any TTX Equipment which ceases to be Approved whether by failure to renew, withdrawal or suspension of Approval or otherwise.

2.3 If there is any conflict between the provisions of the TTX Equipment Approval Scheme and the provisions of this Agreement, the relevant provision in this Agreement shall prevail.

3. **Grant**

3.1 Subject to the TTX Equipment having been Approved in accordance with Clause 2, The Licensor hereby grants to the Licensee a non-exclusive licence to use the TTX Mark on or in relation to TTX Equipment in the Territory, including in connection with the [manufacture, promotion, distribution and sale] of the Licensed Products.

3.2 The Licensee shall not:

- (a) undertake advertising of TTX Equipment in, or specifically aimed at, any country outside the Territory;
- (b) carry out any online sales except to customers located within the Territory (subject to any applicable competition laws) and the Licensee undertakes to direct all enquiries for internet purchases of TTX Equipment from customers outside the Territory to the Licensor or to an approved supplier in the customer's territory;
- (c) actively seek orders for TTX Equipment from outside the Territory; or
- (d) establish any branch dealing in, or maintain any distribution depot for, TTX Equipment outside the Territory.

4. **Application of the TTX Mark**

4.1 All TTX Equipment made or sold by the Licensee in the Territory shall carry the TTX Mark. The Licensee shall comply strictly with the directions of the Licensor regarding the form and manner of the application of the Mark, including the directions contained in the TTX Brand Manual.

4.2 Subject to Clause 4.3, apart from the TTX Mark, no other trade mark or logo may be affixed or used in relation to TTX Equipment.

- 4.3 In respect of the TTX Equipment (including on any packaging, advertising and promotional materials for the TTX Equipment), the Licensee may, use or apply any trademark, logo, emblem, legend, insignia or trade name belonging to:
- (a) itself; and
 - (b) any Third Party, subject to:
 - (i) the prior written approval of the Licensor of the same;
 - (ii) providing written confirmation to the Licensor that the Licensee has all necessary rights to use such third party intellectual property (and providing any such other related documentation and information as the Licensor shall require); and
 - (iii) the indemnity referred to in Clause 12.2(a).
- 4.4 The Licensee shall not use in its business any other trade mark confusingly similar to the TTX Mark and shall not use the TTX Mark or any word confusingly similar to the TTX Mark as, or as part of, its corporate or trading name.
- 4.5 The Licensee shall by email provide the Licensor with examples of any colours and/or patterns which it intends to use on any item of TTX Equipment which shall be subject to the Licensor's written approval. Pending approval by the Licensor, the Licensee shall not use the submitted colours and/or patterns on TTX Equipment save that if the Licensor has not rejected the same within 30 days of receipt, the colours and/or patterns shall be deemed approved. The Licensee shall promptly provide to the Licensor such information relating to any submitted colours and/or patterns as the Licensor shall request. The indemnity in Clause 12.2(a) shall apply in respect of any such colours and/or patterns used by the Licensee on TTX Equipment and no approval or deemed approved by the Licensor of such colours and/or patterns shall prevent, restrict or hinder the Licensor's rights to claim under said indemnity.
5. **Title, goodwill and registrations**
- 5.1 The Licensee acknowledges that the ITTF and the Licensor are the holders of all rights in and to the TTX Mark.
- 5.2 The Licensee shall procure that all TTX Equipment sold by the Licensee and all related quotations, specifications and descriptive literature, and all other materials carrying the TTX Mark, be marked with:
- "Made by [LICENSEE] in [PLACE] under licence from [LICENSOR]. [TTX MARK] is the [registered] trade mark of [LICENSOR]."**
- or with any other statement as notified in writing from the Licensor to the Licensee.
- 5.3 Any goodwill derived from the use by the Licensee of the TTX Mark shall accrue to the Licensor. The Licensor may, at any time, call for a document confirming the assignment of that goodwill and the Licensee shall immediately execute it.
- 5.4 The Licensee shall act strictly in accordance with the TTX Brand Manual and shall not do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the TTX Mark or the reputation or goodwill associated with the TTX Mark or the Licensor, or that may invalidate or jeopardise any registration of the TTX Mark.
- 5.5 The Licensee shall not apply for, or obtain, registration of the TTX Mark for any goods or services in any country.

- 5.6 The Licensee shall not apply for, or obtain, registration of any trade or service mark in any country which consists of, or comprises, or is confusingly similar to, the TTX Mark.
- 5.7 The Licensor warrants that has the relevant rights in and to the TTX Mark and may, at its discretion, on written notice to the Licensee, delete any of the entries in Schedule 2.
- 5.8 The Licensor shall take all reasonable steps to maintain any existing registrations of the TTX Mark and prosecute to registration any pending applications and the Licensee shall provide, at the request and expense of the Licensor, all necessary assistance in such maintenance and prosecution. The Licensor shall provide to the Licensee on request copies of receipts of renewal fees.

6. Quality Inspection

- 6.1 The provisions in the TTX Equipment Approval Scheme in respect of Quality Inspection (Scheduled and Random) shall apply as supplemented by the following provisions of this Clause 6.
- 6.2 The Licensee shall comply with the specifications, standards and directions relating to the TTX Equipment, including their manufacture, promotion, distribution and sale, as notified in writing by the Licensor from time to time.
- 6.3 The Licensee shall, in exercising its rights under this Agreement, comply with, and shall ensure that all TTX Equipment sold or otherwise supplied by the Licensee is compliant with, all applicable laws, regulations, industry standards and codes of practice.
- 6.4 The Licensee shall promptly provide the Licensor with copies of all communications, relating to the TTX Mark or the TTX Equipment, with any regulatory, industry or other authority.
- 6.5 The Licensee shall permit, and shall use its best endeavours to obtain permission for, the Licensor at all reasonable times and on reasonable notice to enter any place used for the manufacture, storage or distribution of the TTX Equipment to inspect the methods of manufacture, storage and distribution.
- 6.6 In the event that, following Quality Inspection, the Licensor suspends any TTX Equipment from the TTX List, the Licensee shall immediately cease any sale, marketing and distribution of such TTX Equipment and shall not recommence distribution until the Licensor confirms in writing that it may do so.
- 6.7 The Licensee shall not sell, market, distribute or use for any purpose, or permit any third party to sell, market, distribute or use for any purpose, any TTX Equipment which has been suspended or withdrawn from the TTX List by the Licensor pursuant to Clause 6.6, or which is damaged or defective.
- 6.8 The Licensee shall, on the Licensor's request, provide the Licensor with details of any complaints it has received relating to TTX Equipment together with reports on the manner in which such complaints are being, or have been, dealt with and shall comply with any reasonable directions given by the Licensor about them.

7. TTX App, marketing, advertising and promotion

- 7.1 The Licensee may apply to the Licensor and the Licensor may grant to the Licensee the right to sell TTX Equipment through the TTX App. The grant of such right shall be entirely at the discretion of the Licensor and subject to such terms and conditions as the Licensor may require.
- 7.2 The Licensee shall use its best endeavours to promote and expand the supply of TTX Equipment throughout the Territory on the maximum possible scale, and shall provide such advertising and publicity as may reasonably be expected to bring the TTX Equipment to the attention of as many purchasers and potential purchasers as possible.

7.3 The Licensee undertakes to ensure that its advertising, marketing and promotion of TTX Equipment shall in no way reduce or diminish the reputation, image and prestige of the TTX Mark.

7.4 The Licensee shall send to the Licensor for its prior written approval, the text and layout of all proposed advertisements and marketing and promotional material relating to TTX Equipment. In the event that the Licensor disapproves of such material, it shall give written notice of such disapproval to the Licensee within 20 business days of receipt by the Licensor of the material. The Licensee shall not use any material in the advertising, marketing or promotion of TTX Equipment that has not been approved by the Licensor. In the absence of a written notice of non-approval within 20 business days of receipt of such materials, the materials shall be deemed to have been approved by the Licensor.

7.5 The Licensee shall bear the costs of all advertising, marketing and promotion for TTX Equipment in the Territory.

8. **Confidentiality**

8.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of five years after expiry or termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, nor any of the terms of this Agreement, except as permitted by Clause 8.2.

8.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights or perform its obligations under or in connection with this Agreement.

9. **Recordal of licence**

9.1 The Licensee shall, at its own cost and as soon as reasonably practicable, record the licence granted to it in Clause 3.1 in the relevant registries in the Territory against the registrations and applications listed in Part 1 - Trade mark(s) of Schedule 2 and against any registrations of any marks listed in Part 1 - Trade mark(s) of Schedule 2 that are notified in writing by the Licensor to the Licensee after the date of this Agreement.

9.2 The Licensor shall provide reasonable assistance, at the Licensee's cost, to enable the Licensee to comply with Clause 9.1.

10. **Fees and commission**

10.1 In consideration of the license granted hereunder, the Licensee shall pay to the Licensor the fees referred to in the TTX Equipment Approval Scheme being:

- (a) the Testing Fees, as per paragraphs 7.6 and 14 of the TTX Equipment Approval Scheme and on a per-product line basis;
- (b) the annual Approval Fee as per paragraphs 7.11 and 14 of the TTX Equipment Approval Scheme and on a per-product line basis; and

(c) the annual License Fee as set out in Schedule 4 to this Agreement.

(together, the '**Fees**').

Subject to Clause 10.2 in relation to the License Fee, the Fees shall be payable within 30 days of falling due in accordance with the TTX Equipment Approval Scheme subject to receipt of an invoice from the Licensor.

- 10.2 The Licensee shall pay the annual License Fee to the Licensor on a monthly basis on the first day of every calendar month subject to receipt of an invoice for the same. The License Fee shall be payable in respect of each line of TTX Equipment Approved for sale under this Agreement and shall cover a certain number of designs of each TTX Equipment as specified in Schedule 5. Payments of the License Fee shall commence from the month in which the relevant TTX Equipment is Approved save where Approval occurs on the 16th day of the month or later in which case the License Fee shall be payable from the beginning of the month immediately following.
- 10.3 In addition to the Fees, the Licensee shall pay to the Licensor a commission of 20% of the Net Sales Price of any TTX Equipment which is sold by the Licensee through the TTX App (the '**App Sales Commission**'). Any monies paid for purchases of the TTX Equipment made through the TTX App (the '**App Purchase Monies**') shall be paid to the Licensor. The App Sales Commission shall be automatically deducted by the Licensor as and when the App Purchase Monies are received by the Licensee or anyone on behalf of the Licensee or when the consideration forming the App Purchase Monies is otherwise performed. For the avoidance of doubt, the Licensee shall not be required to pay to the Licensor any commission or royalty in respect of TTX Equipment sold to customers other than through the TTX App.
- 10.4 The Licensee shall keep proper records and books of account showing the description and price of TTX Equipment sold through the TTX App. Such records and books shall be kept separate from any records and books not relating solely to TTX Equipment and be open to inspection and audit by the Licensor (or its authorised representative), who shall be entitled to take copies of or extracts from the same. If such inspection or audit should reveal a discrepancy in the commission paid from that payable under this Agreement, the Licensee shall immediately make up the shortfall and reimburse the Licensor in respect of any professional charges incurred for such audit or inspection. Such right of inspection of the Licensor shall remain in effect for a period of one year after the termination of this Agreement.
- 10.5 Within 30 days of the end of each calendar year the Licensee shall submit to the Licensor a written statement certified by the Licensee's auditors of the aggregate Net Sales Price of TTX Equipment sold by the Licensee through the TTX App in that year and the amount due to be paid for that year under this Clause 10. In the event that such statement shows that the amount paid by the Licensee is less than the amount due, the Licensee shall pay to the Licensor, within seven days of the submission of the statement, an amount equivalent to the difference between the amount paid and the amount due.
- 10.6 The provisions of this Clause 10 shall remain in effect notwithstanding termination or expiry of this Agreement until the settlement of all subsisting claims by the Licensor.
- 10.7 All sums payable under this Agreement are exclusive of GST (or similar tax) and shall be paid free and clear of all deductions and withholdings whatsoever, unless the deduction or withholding is required by law. If any deduction or withholding is required by law the Licensee shall pay to the Licensor such sum as will, after the deduction or withholding has been made, leave the Licensor with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding. If the Licensee is required by law to make a deduction or withholding, the Licensee shall, within five Business Days of making the deduction or withholding, provide a statement in writing showing the gross amount of the payment, the amount of the sum deducted and the actual amount paid.

- 10.8 All sums payable under this Agreement shall be paid to the credit of a bank account to be designated in writing by the Licensor and in such currency as the Licensor may designate. For the purpose of converting the currency into the chosen currency of the Licensor, the rate of exchange to be applied shall be the rate of exchange applied by the Singapore bankers to the Licensor for the purchase of such foreign currency as at the close of business on the date when the relevant payment first becomes due.
- 10.9 In the event of any delay in paying:
- (a) any sum due under this Agreement; or
 - (b) Penalties and Fines pursuant to the terms of the TTX Equipment Approval Scheme,
- by the due date, the Licensee shall pay to the Licensor:
- (a) interest on the overdue amount at the rate of 4% per annum above United Overseas Bank Limited's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Licensee shall pay the interest together with the overdue amount; and
 - (b) an amount equal to any penalties incurred by the Licensor as a direct result of the delay.
- 10.10 If the Licensee is prohibited by a governmental authority in any country from making any payment due under this Agreement then the Licensee shall, within the prescribed period for making such payment, use its best endeavours to secure from such authority permission to make such payment and shall make it within seven days of receiving such permission. If such permission is not received within 30 days of the Licensee making a request for such permission then, at the option of the Licensor, the Licensee shall either deposit the payment in the currency of the relevant country in a bank account designated by the Licensor within such country, or make the payment to a Group company of the Licensor designated by the Licensor and having an office in the relevant country or in another country designated by the Licensor.
- 10.11 Where the Licensee has granted any sub-licence pursuant to Clause 14, the Licensee shall include, in its royalty payments, payments in respect of all activities set out in Clauses 10.1 and 10.2 which are carried out by or on behalf of the sub- licensee, and shall include records of such activities in the statements it submits pursuant to Clause 10.2, Clause 10.3 and Clause 10.5.
- 10.12 [In consideration of the Licensor granting the licence, and as security for the new relationship between the Licensor and the Licensee, the Licensee shall upon execution of this Agreement pay a deposit to the Licensor equal to USD 5000 \$ (the '**Deposit**'). The Deposit shall be refunded to the Licensee in full within 30 (thirty) days after completion of the Initial Period, subject to the Licensee electing to extend their term by at least a further year and being in full compliance with its obligations under this Agreement. In any other case, the Deposit shall be non-refundable.

11. **Protection of the TTX Mark**

- 11.1 The Licensee shall immediately notify the Licensor in writing giving full particulars if any of the following matters come to its attention:
- (a) any actual, suspected or threatened infringement of the TTX Mark;
 - (b) any actual or threatened claim that the TTX Mark is invalid;
 - (c) any actual or threatened opposition to the TTX Mark;
 - (d) any claim made or threatened that use of the TTX Mark infringes the rights of any third party;

- (e) any person applies for, or is granted, a registered trade mark by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to the Licensee under this Agreement; or
 - (f) any other form of attack, charge or claim to which the TTX Mark may be subject.
- 11.2 In respect of any of the matters listed in Clause 11.1:
- (a) the Licensor shall, in its absolute discretion, decide what action if any to take
 - (b) the Licensor shall have exclusive control over, and conduct of, all claims and proceedings
 - (c) the Licensee shall not make any admissions other than to the Licensor and shall provide the Licensor with all assistance that it may reasonably require in the conduct of any claims or proceedings; and
 - (d) the Licensor shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account.
- 11.3 [The provisions of section 44 of the Trade Marks Act (Chapter 332) (or equivalent legislation in any jurisdiction) are expressly excluded.]
- 11.4 If any third party infringement of the TTX Mark in the Territory interferes materially in the Licensee's business in the TTX Equipment, subject to receiving advice from experienced trade mark counsel that infringement proceedings stand a reasonable chance of success, the Licensee may commence proceedings and may require the Licensor to lend its name to such proceedings and provide reasonable assistance, subject to the Licensee giving the Licensor an indemnity in respect of all costs, damages and expenses that it may incur, including an award of costs against it, directly resulting from the Licensor's involvement in such proceedings.
- 11.5 Nothing in this Agreement shall constitute any representation or warranty that:
- (a) any registration comprised in the TTX Mark is valid
 - (b) any application comprised in the TTX Mark shall proceed to grant or, if granted, shall be valid; or
 - (c) the exercise by the Licensee of rights granted under this Agreement will not infringe the rights of any person.
- 12. Liability, indemnity and insurance**
- 12.1 To the fullest extent permitted by law, the Licensor shall not be liable to the Licensee for any costs, expenses, loss or damage (whether direct, indirect or consequential, and whether economic or other) arising from the Licensee's exercise of the rights granted to it under this Agreement.
- 12.2 The Licensee shall indemnify the Licensor against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Licensor arising out of or in connection with:
- (a) the Licensee's exercise of its rights granted under this Agreement, including any claim made against the Licensor for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection therewith;

- (b) the Licensee's breach or negligent performance or non-performance of this Agreement or the TTX Equipment Approval Scheme, including any product liability claim relating to TTX Equipment manufactured, supplied or put into use by the Licensee;
 - (c) the enforcement of this Agreement; or
 - (d) any claim made against the Licensor by a third party for death, personal injury or damage to property arising out of or in connection with defective TTX Equipment, to the extent that the defect in the TTX Equipment is attributable to the acts or omissions of the Licensee, its employees, agents, sub-licensees or subcontractors.
- 12.3 This indemnity shall apply whether or not the Licensor has been negligent or at fault.
- 12.4 If a payment due from the Licensee under this Clause is subject to tax (whether by way of direct assessment or withholding at its source), the Licensor shall be entitled to receive from the Licensee such amounts as shall ensure that the net receipt, after tax, to the Licensor in respect of the payment is the same as it would have been were the payment not subject to tax.
- 12.5 The Licensee shall, at its expense, carry product liability and comprehensive general liability insurance coverage of an amount adequate to support its liabilities under this Agreement. The Licensee shall ensure that such insurance policy names the Licensor as co-insured with the Licensee and remains in effect throughout the duration of this Agreement and for a period of 1 year after termination or expiry of the agreement, and shall supply the Licensor with a copy of such policy on request.
- 12.6 Nothing in this Agreement shall have the effect of excluding or limiting any liability for death or personal injury caused by negligence.
13. **Additional Licensee obligations**
- 13.1 The Licensee shall:
- (a) ensure that the TTX Equipment is safe for the use for which it is intended;
 - (b) obtain at its own expense all licences, permits and consents necessary for the provision of the TTX Equipment in the Territory;
 - (c) perform its obligations in connection with the provision of the TTX Equipment with all due skill, care and diligence including good industry practice;
 - (d) only make use of the TTX Mark for the purposes authorised in this Agreement; and
 - (e) comply with all regulations and practices in force or use in the Territory to safeguard the Licensor's rights in the TTX Mark.
- 13.2 The Licensee shall not, nor directly or indirectly assist any other person to:
- (a) use the TTX Mark except as permitted under this Agreement; or
 - (b) do or omit to do anything to diminish the rights of the Licensor in the TTX Mark or impair any registration of the TTX Mark.
- 13.3 In performing its obligations under the agreement, the Licensee shall comply with the Licensor's policies.
- 13.4 The Licensee acknowledges and agrees that the exercise of the licence granted to the Licensee under this Agreement is subject to all applicable laws, enactments, regulations and other similar instruments in the Territory, and the Licensee understands and agrees that it shall at all times be solely liable and responsible for such due observance and performance.

13.5 The Licensee (if a manufacturer of TTX Equipment) undertakes to the Licensor to promptly refer to the Licensor any client seeking supplies of TTX Equipment for resale [to an end-user client or customer] (a 'Reseller') providing details of the Licensor to enable the Reseller to contact the Licensor. The Licensee shall also promptly provide details of the Reseller to the Licensor. The Licensee further undertakes not to supply any TTX Equipment to any Reseller unless the Reseller appears on the TTX Lists. The Licensee hereby acknowledges and declares that any and all TTX Equipment supplied to a Reseller by the Licensee shall comply with the TTX Equipment Approval Scheme.

13.6 The Licensee acknowledges and accepts that it may be liable to pay to the Licensor Penalties and Fines pursuant to the terms of the TTX Equipment Approval Scheme and the Licensee further acknowledges that such Penalties and Fines are reasonable and reflect a genuine pre-estimate of the Licensor's losses as a result of any breach by the Licensee of the TTX Equipment Approval Scheme.

14. **Sub-contracting**

The Licensee shall have the right to sub-contract any of its rights under this Agreement provided that:

- (a) the Licensee obtains the prior written consent of the Licensor;
- (b) the Licensee shall ensure that the terms of any sub-contract are in writing and are substantially the same as the terms of this Agreement (except that the sub-contractor shall not have the right to sub-contract its rights) and the Licensee shall provide the Licensor with a copy of the sub-contract on request;
- (c) all sub-contract granted shall terminate automatically on termination or expiry of this Agreement;
- (d) the Licensee shall be liable for all acts and omissions of any sub-contractor and shall indemnify the Licensor against all costs, expenses, claims, loss or damage incurred or suffered by the Licensor, or for which the Licensor may become liable, (whether direct, indirect or consequential and including any economic loss or other loss of profits, business or goodwill) arising out of any act or omission of any sub-contractor, including any product liability claim relating to TTX Equipment manufactured, supplied or put into use by the sub-contractor; and
- (e) the provisions of Clauses 12.4 and 12.5 shall apply to this Clause 14 (the necessary changes having been made).

15. **Assignment and other dealings**

15.1 The Licensee shall not assign, transfer, mortgage, charge, subcontract, sub-license, declare a trust over, or deal in any other manner with any or all of its rights under this Agreement without the prior written consent of the Licensor.

15.2 The Licensor may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement, provided that it gives prior written notice of such dealing to the Licensee.

15.3 The Licensor may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party provided that it gives prior written notice of such subcontract or delegation to the Licensee.

16. Duration and termination

- 16.1 This Agreement shall commence on the Effective Date and shall continue, unless terminated earlier in accordance with Clause 16, for a period of two years (the 'Initial Period') when it shall automatically renew on the same terms on an annual basis.
- 16.2 Either party shall have the right to terminate this Agreement:
- (a) at end of the Initial Period; and
 - (b) at the end of any subsequent anniversary of the Effective Date;
on giving the other not less than 60 days' written notice prior to the end of such period.
- 16.3 Without affecting any other right or remedy available to it, the Licensor may terminate this Agreement with immediate effect by giving written notice to the Licensee if:
- (a) the Licensee fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - (b) the Licensee commits a material breach of any term of this Agreement or of the TTX Equipment Approval Scheme which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - (c) the Licensee repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - (d) the Licensee suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 254 of the Companies Act (Chapter 50);
 - (e) the Licensee commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Licensee with one or more other companies or the solvent reconstruction of the Licensee;
 - (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Licensee (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Licensee with one or more other companies or the solvent reconstruction of the Licensee;
 - (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given, or if an administrator is appointed over the Licensee;
 - (h) the holder of a qualifying floating charge over the assets of the Licensee (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (i) a person becomes entitled to appoint a receiver over all or any of the assets of the Licensee or a receiver is appointed over all or any of the assets of the Licensee;
 - (j) a creditor or encumbrancer of the Licensee attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

- (k) any event occurs, or proceeding is taken, with respect to the Licensee in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 16.3(d) to Clause 16.3(j) (inclusive);
 - (l) the Licensee suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - (m) there is a change of control of the Licensee; or
 - (n) the Licensee challenges the validity of the TTX Mark.
- 16.4 For the purposes of Clause 16.3(b), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:
- (a) a substantial portion of this Agreement; or
 - (b) any of the obligations set out in Clauses 2.1, 3.2, 4, 5.4, 5.5, 5.6, 6, 7, 11, 12.5, 13, 14, or 15
- over the term of this Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
17. **Consequences of termination**
- 17.1 On expiry or termination of this Agreement for any reason and subject to any express provisions set out elsewhere in this Agreement:
- (a) all outstanding sums payable by the Licensee to the Licensor shall immediately become due and payable;
 - (b) all rights and licences granted pursuant to this Agreement shall cease;
 - (c) the Licensee shall cease all use of the TTX Mark save as set out in this Clause;
 - (d) the Licensee shall co-operate with the Licensor in the cancellation of any licences registered pursuant to this Agreement and shall execute such documents and do all acts and things as may be necessary to effect such cancellation;
 - (e) the Licensee shall return promptly to the Licensor at the Licensee's expense all records and copies of promotional material in its possession relating to the TTX Equipment, and of any information of a confidential nature communicated to it by the Licensor, either preparatory to, or as a result of, this Agreement to the extent such material remains confidential; and
 - (f) within 120 days after the date of termination the Licensee shall promptly destroy or, if the Licensor shall so elect, deliver to the Licensor or any other person designated by the Licensor, at the Licensee's expense, all TTX Equipment that it has not disposed of within 90 days after the date of termination.
- 17.2 On expiry or termination of this Agreement for any reason other than termination by the Licensor under any right provided by Clause 16.3 the Licensee shall, for a period of 90 days after the date of termination, have the right to dispose of all stocks of TTX Equipment in its possession and (if relevant) all TTX Equipment in the course of manufacture at the date of termination.
- 17.3 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 17.4 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim

damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

18. Assignment and other dealings

18.1 Subject to Clause 14 the Licensee shall not assign, transfer, mortgage, charge, subcontract, sub-license, declare a trust over, or deal in any other manner with any or all of its rights under this Agreement without the prior written consent of the Licensor.

18.2 The Licensor may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement provided that it gives prior written notice of such dealing to the Licensee.

19. Further assurance

Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

20. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

21. Entire agreement

21.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

22. Variation

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23. Severance

23.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of this Agreement.

23.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

24. **Counterparts**

- 24.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 24.2 Transmission of the executed signature page of a counterpart of this Agreement by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 24.3 No counterpart shall be effective until each party has executed at least one counterpart.

25. **Third party rights**

Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act (Chapter 53B) to enforce any term of this Agreement.

26. **No partnership or agency**

- 26.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 26.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

27. **Notices**

- 27.1 A notice given to a party under or in connection with this Agreement shall be in writing and sent to the party at the address or email address or to the fax number given in this Agreement or as otherwise notified in writing to the other party.
- 27.2 The following table sets out methods by which a notice may be sent and its corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Delivery by hand/ courier	On signature of a delivery receipt or at the time the notice is left at the address.
Email	At the time of transmission.
Fax	At the time of transmission.

- 27.3 For the purpose of Clause 27.2 and calculating deemed receipt, all references to time are to local time in the place of deemed receipt.
- 27.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

28. **Inadequacy of damages**

Without prejudice to any other rights or remedies that the Licensor may have, the Licensee acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the Licensee. Accordingly, the Licensor shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.

29. **Governing law**

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Singapore.

30. **International Arbitration**

Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Singapore Rules, which Rules are deemed to be incorporated by reference into this clause.

The number of arbitrators shall be [one/three].

The seat, or legal place, of arbitration shall be Singapore.

The language to be used in the arbitral proceedings shall be English.

This Agreement has been entered into on the date stated at the beginning of it.

**Schedule 1
TTX Equipment**

**Schedule 2
TTX Mark**

Part 1 - Trade mark(s)

Registered trade marks and applications

Country	Mark	Registered ? (Y/N)	App or regn no	Date of app or regn	Classes	Specificati on

Unregistered trade marks

Country	Mark	Date first used	Goods or services in respect of which the mark has been used

Part 2 - Related indicia

Schedule 3
TTX Equipment Approval Scheme

**Schedule 4
Annual License Fee**

Equipment (per line)	Balls	Nets	Rackets	Tables
License Fee	USD 20,000 (up to ten designs)	USD 10,000 (up to three designs)	USD 15,000 (up to ten designs)	USD 15,000 (up to three designs)
Each additional design	USD 500	USD 500	USD 500	USD 1,000

Signed by [Name])

as duly authorised signatory)

for and on behalf of)

[ITTF Asia Pacific Pte Ltd])

Signed by [Name])

as duly authorised signatory)

for and on behalf of)

[Licensee])
