



**FOOTBALL
FEDERATION
VICTORIA**
June 2007

FOOTBALL FEDERATION VICTORIA
Darebin International Sports Centre
281 Darebin Road, Thornbury Vic 3071
PO Box 318, Fairfield, Vic 3078, Australia

T (03) 9474 1800
F (03) 9474 1899
www.footballfedvic.com.au
info@footballfedvic.com.au
ABN 97 592 993 965

Mr Gavin Jones
Director
Adjudication Branch
Australian Competition and Consumer Commission
Level 35, The Tower
360 Elizabeth Street
MELBOURNE VIC 3000

Dear Mr Jones

Football Federation Victoria licensing program

In your letter dated 3 May 2007, you asked for the Football Federation of Victoria's response to a number of questions and for any comments on the submissions attached to your letter.

Response to your questions

Our responses are as follows (using your numbering):

1. The process used by the FFV to renew or appoint the 2007 -2009 licensees was:
 - (a) An invitation was issued to ball and apparel manufacturers by mail and posted on the FFV website for a month (ball memo dated 9 August 2006 and apparel memo dated 12 June 2006 as posted on the FFV website are attached) to contact the FFV to obtain an official application form.
 - (b) Those manufacturers who contacted the FFV for an official application form (tender document) were sent either or both of (as the case may be) the ball and apparel application forms.
 - (c) Manufacturers submitted application forms, along with samples.
 - (d) The licensees were selected by the FFV
 - (e) The licenses were signed.
2. An indicative copy of each of the ball and apparel licence agreements and the official application forms (tender documents) sent to prospective licensees last year are attached.
3. New licence agreements are entered into with manufacturers every three years subject to a tender process (completion of the official application forms and selection by the FFV). There is no guarantee that an incumbent licensee will submit an application form or will win a new licence at the end of the tender process.

4. The grace period changed from two years to one year because the FFV determined that as the licenses last for only 3 years it was reasonable to reduce the grace period in order to enhance the value of the licence to the licensees. In addition, the FFV understands that clubs generally change their apparel every one to two years to display any new sponsors' logos, so the licence period and grace period combined (4 years) are reasonable for clubs. If there was no grace period, clubs might be tempted to continue purchasing balls and apparel from previously licensed manufacturers indefinitely.
5. Applicants for licences in the tender process must indicate their lead times and distribution methods. This is one of the criteria the FFV considers in awarding licences. Standards are not set for the timely supply of balls and apparel in the licence agreements.
6. The annual revenue raised by the licensing program from 2003 to 2006 ranged between \$91,000 and \$147,000.
7. The revenue raised by the licensing program is used to help pay for the administration of the FFV.

Comments on submissions

8. It is likely that those who support or are not concerned about the licensing program would not respond to the ACCC's invitation to submit a response to the FFV's notifications.
9. It is interesting to note that the 21 submissions from football clubs received by the ACCC only constitute around 4.6% of the 450 clubs associated with the FFV.
10. Of those 21, we note that 12 are substantially the same letter (those from Dandenong Thunder Inc, Bentleigh Greens Soccer Club, Gisborne Junior Soccer Club, Glen Waverley Junior Soccer Club, Kingston City Football Club Inc, Old Carey Soccer Club Inc, Reservoir United Soccer Club, Stonnington City Soccer Club, Westvale Soccer Club, Eastern Lions Soccer Club, Alphington JFC and Alphington Park Junior Football (Soccer) Club).
11. Some of the submissions raise particular issues which are addressed in the FFV's notifications and attachments.
12. We wish to make the following additional comments on issues raised in the submissions:
 - (a) Length of licences

The FFV has already entered into licence agreements for the years 2007 - 2009. The changing marketplace, including manufacturers entering or exiting the market, the types of apparel and balls that may be on offer, the increasing number of players and clubs registered with the FFV and the increasing profile of football mean that the FFV would not want to increase the length of the licenses at this stage.
 - (b) Timely distribution

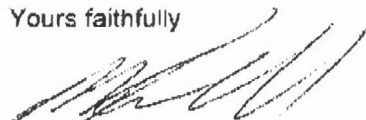
A distinction should be drawn between the known lead times of manufacturers where items are not already in stock at retailers' stores and the fulfilment of those known lead times by manufacturers. Of course, if an item is in stock there will be no lead time or very little depending on the location of the relevant retailer and any additional work required (such as sewing on numbers).

(c) Compliance

Clubs complete part of the playing forms (including information about the players) and then submit them to the referees before the game, who then complete them (including information about licensed apparel and balls and the score) and send them off to the FFV without the clubs seeing them again. We do not know on what basis one of the submissions alleges that referees do not properly complete the licensee part of this form.

If you have any queries or require any additional information, please do not hesitate to contact Eleanor Whyte of Lander & Rogers on 03 9672 9153 or at ewhyte@landers.com.au.

Yours faithfully



Football Federation of Victoria



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ABN 97 592 993 965

To: All Apparel Manufacturers
From: FFV Commercial Operations
Date: Monday, 12 June 2006
Subject: Apparel Licence Application 2007-2009

Football Federation Victoria is calling for submissions from football apparel manufacturers/ companies interested in obtaining an Apparel Licence for the 2007- 2009 licensing period.

Applicants must submit official application form along with sample apparel by no later than 5pm on **15 July 2006** with successful applicants notified by **30 August 2006**.

To obtain an official application form, please contact Kirsty Jopson at kjopson@footballfedvic.com.au. Any requests by companies not involved in a 2004-2006 ball or apparel licence agreement must accompany an ABN/ACN number along with a valid Certificate of Business Registration.

Please submit completed application and sample apparel by the 15 July 2006, to the attention of:

Michael Zappone
Head of Commercial Operations
Football Federation Victoria
PO Box 318
FAIRFIELD VIC 3078

All enquiries can be directed to Kirsty Jopson, Marketing Coordinator on 03 9474 1814.

www.footballfedvic.com.au



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info@footballfedvic.com.au
ABN 97 592 993 965

To: All Ball Manufacturers
From: FFV Commercial Operations
Date: Wednesday, 9 August 2006
Subject: Ball Licence Application 2007-2009

Football Federation Victoria is calling for submissions from football manufacturers/ companies interested in obtaining a match ball licence for the 2007- 2009 licensing period.

Applicants must submit official application form along with sample balls (match and training balls) by no later than 5pm on **8 September 2006** with successful applicants notified by **30 September 2006**.

To obtain an official application form, please contact Kirsty Jopson at kjopson@footballfedvic.com.au. Any requests by companies not involved in a 2004-2006 ball or apparel licence agreement must accompany an ABN/ACN number along with a valid Certificate of Business Registration.

Please submit completed application and sample match balls by the **8 September 2006**, to the attention of:

Michael Zappone
Head of Commercial Operations
Football Federation Victoria
PO Box 318
FAIRFIELD VIC 3078

All enquiries can be directed to Kirsty Jopson, Marketing Coordinator on 03 9474 1814.

www.footballfedvic.com.au



Football Federation Victoria

2007 - 2009 Apparel Licensing Program

Football Federation Victoria manages a program that allows selected manufacturers to provide match day apparel to all clubs competing in FFV competitions from the U/8 age group and above.

Background

The FFV Licensing program was originally introduced in 1998.

The licensing program is administered and managed by FFV's Commercial Operations Department, to ensure that the apparel licensing program is adhered to by clubs.

Match referees report any breaches of the program via team sheets, and the Commercial Operations Department follows up each report with a letter to the club, requesting an explanation for any breach. Clubs are advised in the FFV Regulations, that breaches of the playing apparel licensing requirements will incur a fine of up to \$1,500.

The Apparel Licensing program includes players and goalkeeper's shirts, shorts and socks. Each piece of apparel must have a FFV logo attached (iron on logo on shirts and shorts, and knitted into socks).

The iron-on logos should be obtained directly from FFV, however the logos knitted into the socks can be of colours suited to each club.

The next period of the licensing program will run from 1 December 2006 to 30 November 2009. Any prospective new licensee should be aware that each club will be given a one year grace period for which to buy new strips should any of the existing licensees not be a part of the next period of the program.

There will be four active licensees for the next period of the program, depending on the quality of the applications. License fees will be adjusted according to the number of participants.

Applicants should also be aware that if successful in obtaining an apparel license for the 2007 -2009 period they agree not to:

- a) produce, manufacture, distribute, sell any Licensed Products to any person other than an approved retailer;
- b) produce, manufacture, distribute or sell any Licensed Products to any approved retailer in which it has financial interest.

Participation rates

There are approximately 45,000 registered players in FFV competitions in 2006, all which will fall under the umbrella of the Licensing Program.¹

There are a further 35,000 players in the primary and secondary school system, which does not fall under the licensing program, but is a further potential market.

A recent survey conducted by Roy Morgan named soccer as the number one team sport in Australia, demonstrating the phenomenal growth of the sport nationally. In addition, the increase of Victorian participants within the last three years also provides evidence of the rapid of increase of soccer participants at State level.

The Roy Morgan Research showed there were more than 1.2 million participants across the country, the highest number of participants of any sport. This includes 221,000 Victorians over the age of 14 years who participate in football occasionally or regularly.

¹ Please see attached Participation rates

Competitions and Leagues governed under the license agreement

All competitions run by FFV and run by affiliates of FFV will be bound by the rules and regulations of Football Federation Victoria in the next license period.

Vodafone Cup (Men's Victorian Premier League)

Women's Premier League

Men's State League

Women's State League

Men's Provisional League

Men's Thirds League

Men's Masters League

MILO Junior Leagues

For the first time, the FFV apparel license will include all Victorian regional competitions. This includes competitions run by the following:

North Eastern Soccer League

Soccer Albury-Wodonga

Bendigo Amateur Soccer League

Ballarat and District Soccer Association

Gippsland Soccer League

Sunraysia Soccer Association

Western Victoria Soccer Association

Existing licensees

The existing licensees are Covo Sports, NIKE, Patrick and Only Sport.

Application process

All applicants are requested fill out the attached forms and provide samples before 15 July 2006 and submit to:

Michael Zappone,
Head of Commercial Operations,
Football Federation Victoria
PO BOX 318, Fairfield, VIC 3078

Successful applicants will be notified by 30 August 2006.

Annual License Fees 2007, 2008 and 2009

Royalties on gross sales (plus GST)	8%
Minimum royalty	\$7,000
Annual License Fee (plus GST)	\$10,000
FFV patches (for shorts and shirts)	50c per patch
Annual apparel provision to FFV	\$ 2,500

The fees will remain at this level for the duration of this period of the program.

The royalty applies to Gross Sales, and therefore should be included in any sponsorship deals manufacturers and / or retailers implement with clubs.²

Specific contracts will be drawn up with the successful applicants.

Each licensee will only be allowed to operate with one apparel brand name.

² "Gross Sales" includes the sales of product (exclusive of sales tax) whether for cash or credit, as well as the prices ordinarily charged by the licensee when the provision of goods occurs free of charge.

LICENCEE APPLICATION 2007- 2009

PLAYING APPAREL

Company Name:	
ABN number:	
Address:	
Suburb:	
State:	
Postcode:	
Principal Contact:	
Title:	
Telephone (bh):	
Mobile:	
Fax:	
Email:	
Web Address:	

COMPANY INFORMATION	
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1. Legal Form of Organisation	
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2. Principal Officers (Directors, General Managers, Sales Managers etc)	
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3. Financial Information	
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Bank Name:	
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Branch:	
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Telephone:	
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4. Credit References (Suppliers)	
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Name:	
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Address:	
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Telephone:	
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Name:	
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Address:	
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Telephone:	
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GENERAL INFORMATION

1. Please indicate the range and specifications of the products proposed for licensing (*brand name, material composition*)
 - Samples should be supplied with your application (if not already with the FFV)
 - Current wholesale prices should be indicated (confidentiality ensured)
 - Brand names of apparel manufactured (*if applicable, include brochures here*)

2. Where are your products manufactured (including socks)? (Domestic / International)

3. What is your method of distribution?

- Please list your current and proposed distribution network in metropolitan and regional Victoria.
- Define any specific distribution strategy
- List leading accounts

4. What services will you be providing retail outlets (eg sales support, printing of numbers etc)

5. Do you stock apparel, or operate on a "make to order" basis?

6. How much flexibility will you be able to provide clubs in terms of colour and design? (Will you be able to satisfy individual requests, or will clubs be restricted to certain colours and designs?)

7. What lead times do you require for delivery?

8. List trade contacts to whom you currently sell

Company:

Address:

Telephone:

Company:

Address:

Telephone:

9. Please indicate any prior experience in supplying the football market (domestically, nationally and internationally)

10. Does your company market products under other licensing arrangements? Please specify.

11. Indicate any areas that you have been or are currently involved with that show your commitment to soccer and its development.

12. Please outline your company strategy(ies) for the football market (including ideas for Victorian football).



Football Federation Victoria

2007 - 2009 Ball Licensing Program

Football Federation Victoria manages a program that allows selected manufacturers to provide match day balls to all clubs competing in FFV competitions from the U/8 age group and above.

Background

The FFV Licensing program was originally introduced in 1998.

The licensing program is administered and managed by FFV's Commercial Operations Department, to ensure that the ball licensing program is adhered to by clubs.

Match referees report any breaches of the program via team sheets, and the Commercial Operations Department follow up each report with a letter to the club, requesting an explanation for any breach. Clubs are advised in the FFV Regulations, that breaches of the match ball licensing requirements will incur a fine of up to \$250.

The Ball Licensing program stipulates that every FFV match (from the Under 8 age group and above) must be played with an approved ball from one of FFV's approved licensed brands. It is not an FFV requirement for match day balls to be branded with the FFV logo. This program does not cover the provision of training balls used during practice training sessions only.

The next period of the licensing program will run from 1 December 2006 to 30 November 2009. Unlike the Apparel Licensing Agreement, clubs are given no grace period to use balls from any of the existing ball licensees should they not be part of the next period of the program.

Depending on the quality of applications, there will be four (4) ball licensees for the next program. License fees will be adjusted according to the number of participants.

Applicants should also be aware that if successful in obtaining a ball license for the 2007 -2009 period they agree not to:

- a) produce, manufacture, distribute, sell any Licensed Products to any person other than an approved retailer;
- b) produce, manufacture, distribute or sell any Licensed Products to any approved retailer in which it has financial interest.

Participation rates

There are approximately 45,000 registered players in FFV competitions in 2006, all which will fall under the umbrella of the Licensing Program.¹

There are a further 35,000 players in the primary and secondary school system, which does not fall under the licensing program, but is a further potential market.

A recent survey conducted by Roy Morgan named football (soccer) as the number one team sport in Australia, demonstrating the phenomenal growth of the sport nationally. In addition, the increase of Victorian participants within the last three years also provides evidence of the rapid increase of football (soccer) participants at state level.

The Roy Morgan Research showed there were more than 1.2 million participants across the country, the highest number of participants of any sport. This includes 221,000 Victorians over the age of 14 years who participate in football occasionally or regularly.

¹ Please see attached Participation rates

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Vodafone Cup (Men's Victorian Premier League)

Women's Premier League

Men's State League

Women's State League

Men's Provisional League

Men's Thirds League

Men's Masters League

MILO Junior Leagues

For the first time, the FFV apparel license will also include all Victorian regional competitions. This includes competitions run by the following:

North Eastern Soccer League

Soccer Albury-Wodonga

Bendigo Amateur Soccer League

Ballarat and District Soccer Association

Gippsland Soccer League

Sunraysia Soccer Association

Western Victoria Soccer Association

Existing licensees

The existing licensees are Covo Sports, NIKE, Patrick and Mitre Sports.

Application process

All applicants are requested fill out the attached forms and provide samples before 8 September 2006 and submit to:

Michael Zappone,
Head of Commercial Operations,
Football Federation Victoria
PO BOX 318, Fairfield, VIC 3078

Successful applicants will be notified by 30 September 2006.

Annual License Fees 2007, 2008 and 2009

Annual License Fee (plus GST)	\$6,000
Annual ball provision to FFV	\$ 4,000

The fees will remain at this level for the duration of this period of the program.

The royalty applies to Gross Sales, and therefore should be included in any sponsorship deals manufacturers and / or retailers implement with clubs.²

Specific contracts will be drawn up with the successful applicants.

Each licensee will only be allowed to operate with one ball brand name.

² "Gross Sales" includes the sales of product (exclusive of sales tax) whether for cash or credit, as well as the prices ordinarily charged by the licensee when the provision of goods occurs free of charge.

LICENCEE APPLICATION 2007- 2009

MATCH BALLS

Company Name:	
ABN number:	
Address:	
Suburb:	
State:	
Postcode:	
Principal Contact:	
Title:	
Telephone (bh):	
Mobile:	
Fax:	
Email:	
Web Address:	

COMPANY INFORMATION	
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1. Legal Form of Organisation	
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2. Principal Officers (Directors, General Managers, Sales Managers etc)	
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3. Financial Information	
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Bank Name:	
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Branch:	
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Telephone:	
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4. Credit References (Suppliers)	
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Name:	
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Address:	
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Telephone:	
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Name:	
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Address:	
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Telephone:	
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GENERAL INFORMATION

1. Please indicate the range and specifications of the products proposed for licensing (*brand name, material composition*)
 -
 - Samples should be supplied with your application
 - Current wholesale prices should be indicated (confidentiality ensured)
 - Brand names of match balls manufactured (*if applicable, include brochures here*)

2. Where are your products manufactured? (Domestic / International)

3. What is your method of distribution?

- Please list your current and proposed distribution network in metropolitan and regional Victoria.
- Define any specific distribution strategy
- List leading accounts

4. What services will you be providing retail outlets? (eg sales support)

5. What is your capacity to stock product within Australia (please list locations)?

6. What lead times do you require for delivery?

7. List any trade contacts to whom you currently sell

Company:

Address:

Telephone:

Company:

Address:

Telephone:

Company:

Address:

Telephone:

8. Please indicate any prior experience in supplying the football market (domestically, nationally and internationally)

9. Does your company market products under other licensing arrangements? Please specify.

10. Indicate any areas that you have been or are currently involved with that show your commitment to football and its development.

11. Please outline your company strategy(ies) for the football market (including ideas for Victorian football).

NON EXCLUSIVE APPAREL LICENCE AGREEMENT

THIS AGREEMENT is made this day of 2006

BETWEEN:

1. **FOOTBALL FEDERATION VICTORIA INC.** of 281 Darebin Road, Thornbury, Victoria (the “**FFV**”); and
2. The Party specified in Item 1 of the First Schedule to this Agreement (the “**Licensee**”).

RECITALS:

- A. The FFV is the user and/or registered proprietor of the Marks.
- B. The Licensee wishes to use the Marks on various products.
- C. The FFV has agreed to license the Licensee on a non-exclusive basis to use the Marks on the Licensed Products in the Territory for the Term on the terms and conditions set out below.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

Unless the context otherwise requires, the following expressions in this Agreement have the meanings ascribed below:

“**Accounting Records**” means all books of account and other records of the Licensee that relate to Licensed Products including without limitation, the production, manufacture, distribution, sale, advertising or display of the Licensed Products;

“**Badges**” means badges on which the Marks are printed;

“**Club**” means a club which is named on the list provided by the FFV to the Licensee in accordance with Clause 3.4 and includes any members of that club;

“**Commencement Date**” means the date specified in Item 2 of the First Schedule;

“**Completion Date**” means the date specified in Item 3 of the First Schedule;

“**Gross Sales**” means the aggregate of:

- (a) the prices charged by the Licensee or by any person related to or associated with the Licensee in respect of the sale or supply of the Licensed Products (exclusive of sales tax) whether for cash or credit; and
- (b) if the Licensee or any person related to the Licensee agrees to accept, in respect of the supply of Licensed Products, consideration of goods and/or services or provides Licensed Products to anybody free of charge, the prices that would ordinarily be charged by the Licensee if the goods had been sold in the usual course of business at the usual price,

exclusive of all costs of sales, credit charges and any discounts given in respect of any Licensed Product by the Licensee to any person;

“**Licence**” means the licence described in Clause 3 of this Agreement;

“**Licence Fee**” means the licence fee described in Clause 5 of this Agreement;

“**Licensed Products**” means the products specified in Item 4 of the First Schedule;

“**Marks**” mean the trademarks, design, copyright materials and logos set out in the Second Schedule;

“**Minimum Royalty**” means the amount specified as the minimum royalty in Item 7 of the First Schedule for each relevant period;

“**Retailer**” means a retailer as approved by the Football Federation Victoria;

“**Royalty**” means the royalty described in Clause 5 of this Agreement;

“**Term**” means the period from the Commencement Date, and unless terminated in accordance with the provisions of this Agreement, to the Completion Date (inclusive);

“**Territory**” means the area specified in Item 6 of the First Schedule.

2. BADGES

2.1 The FFV will manufacture or cause to manufacture Badges.

2.2 The Licensee will purchase exclusively from the FFV, at the price specified in Item 11 of the First Schedule, all Badges to be used in the production, manufacture, distribution and sale of Licensed Products. The Licensee will pay the FFV all monies owing for the Badges purchased within 30 days of the date that the Badges are delivered to the Licensee.

2.3 The Licensee covenants with the FFV that it will only use the Badges for the purpose of the production, manufacture, distribution and sale of Licensed

2.4 Products in accordance with the terms of the Licence and the provisions of this Agreement.

3. NON EXCLUSIVE LICENCE

3.1 The FFV hereby grants to the Licensee for use only in the Territory a non-exclusive, personal, non-transferable licence to:

- (a) affix the Badges on the Licensed Products for the purposes of the production, manufacture, distribution and sale of the Licensed Products to Clubs; and
- (b) use the Marks on such other items as agreed with the FFV for the purposes of advertising and displaying of Licensed Products.

3.2 The Licensee warrants that it will not:

- (a) produce, manufacture, distribute, sell, advertise or display the Licensed Products outside the Territory;
- (b) produce, manufacture, distribute or sell any Licensed Products to any person other than a Retailer.

3.3 The Licensee acknowledges that the FFV may license other parties to use the Badges and Marks whether inside or outside the Territory for any purpose including without limitation a licence to affix the Badges and Marks on products of the same type or class as the Licensed Products.

3.4 On or before 1 January during each year of the Term, the FFV will provide to the Licensee a list of all clubs who are members of, or affiliated with, the FFV which list will remain in force during the relevant year except where notice of any amendment is given by the FFV to the Licensee. The list will be deemed to be amended as from the date such notice is given.

4. TERM

4.1 Notwithstanding the date that this Agreement is executed, the parties agree that, subject to the provisions of Clause 11, the period of the Licence is for the Term.

4.2 If the licensee fails to meet its obligations under the term of this agreement or is found to be in breach of this agreement, FFV may terminate the contract within three months of giving written notification.

4.3 (a) FFV may at its sole discretion impose a 12 month probation period, if the licensee cannot meet the stated obligations under the conditions of this Agreement.

- (b) Nothing in this Clause shall prevent FFV from terminating this Licence in accordance with Clause 4.2 hereof.

5. FEES AND ROYALTIES

- 5.1 In consideration of the right to use the Badges and Marks in accordance with the terms of this Agreement, the Licensee will pay to FFV an annual licence fee in the amount set out in Item 5 of the First Schedule on the dates set out in Item 5 of the First Schedule.
- 5.2 In consideration of the right to use the Badges and Marks in accordance with the terms of this Agreement, the Licensee must pay a royalty to the FFV at the rate specified in Item 7 of the First Schedule. The Royalty payable to the FFV for each of the periods set out in Item 8 of the First Schedule must be paid by the Licensee to the FFV on or before the respective dates specified in Item 8 of the First Schedule.
- 5.3 The Licensee guarantees that the total Royalty payable to the FFV will be equal to or in excess of the Minimum Royalty in respect of each relevant period.
- 5.4 If, at the expiration of the each period set out in Item 7 of the First Schedule, the total Royalty paid or payable by the Licensee to the FFV in respect of that period is less than the Minimum Royalty for that period, then the Licensee must within 30 days after the expiration of that period pay to the Licensee such further sum as necessary so that the total Royalty paid by the Licensee to the FFV under this Agreement in respect of that period equals the relevant Minimum Royalty.
- 5.5 In addition to the payment of the Licence Fee and Royalty, the Licensee will provide to the FFV free of charge Licensed Products to the value of the amount set out in Item 9 of the First Schedule. If there is more than one different type or class of product that falls within the definition of Licensed Products, then the types or classes of Licensed Products that are to be provided to the FFV in accordance with this clause will be as determined by the FFV.
- 5.6 On the same dates as the Licensee pays the Royalty to the FFV in accordance with Clause 5.2 above, the Licensee must provide to the FFV a statement setting out:
- (a) the total number of units of the Licensed Products in the possession of the Licensee at the commencement of the relevant period;
 - (b) the total number of units of the Licensed Products manufactured during the relevant period;

- (c) the total number of units of the Licensed Products sold or otherwise disposed of during the relevant period other than to the FFV;
- (d) the total number of units of the Licensed Products that were sold or otherwise provided to the FFV during the relevant period;
- (e) the total number of units of the Licensed Products in the possession of the Licensee at the conclusion of the period;
- (f) the sale price of each of the Licensed Products sold during the relevant period; and
- (g) the Royalty payable in respect of the relevant period.

5.7 If there is more than one Licensed Product or there are a number of different types or classes of products that fall within the definition of Licensed Products then the Licensee must provide a statement in the form specified in Clause 5.6 in respect of each type or class of product and for the avoidance of any doubt each Licensed Product produced for each Club will constitute a different type or class of Licensed Product.

6. RECORDS AND AUDIT

- 6.1 The Licensee must maintain true and accurate Accounting Records of all matters that relate to the Licensed Products.
- 6.2 The Licensee must immediately upon demand by the FFV produce to the FFV or its nominee, or make available for inspection by the FFV or its nominee (including taking copies) the Accounting Records.
- 6.3 The FFV may conduct an audit of the Accounting Records. If the audit discloses that the amount paid to the FFV as Royalty is less than the actual Royalty that should have been paid then the Licensee must immediately pay the FFV the shortfall owing together with interest at the rate of 15% per annum from the date that the Royalty should have been paid to the date of payment. If the shortfall in any one period is more than 5% of the Royalty that should have been paid in the relevant period, then the Licensee must reimburse to the FFV all costs associated with the audit including, without limitation, all accounting and legal fees on an indemnity basis. The receipt by the FFV of any shortfall, interest, or audit fees in accordance with this clause will not prejudice any other rights that the FFV may have against the Licensee.

7. FFV TO APPROVE LICENSED PRODUCTS AND DISPLAYS

7.1 The Licensee must not produce, manufacture, distribute or sell any Licensed Product, or any packaging for a Licensed Product, unless that good, product or packaging has first been approved by the FFV as to quality, design (including

but not limited to the identity, appearance, size and positioning of the Badges and Marks), dimensions, materials, fabric and pricing structure.

7.2 The Licensee must submit for approval by the FFV such number of samples of each of the Licensed Products and packaging for the Licensed Products, as the FFV shall reasonably request, and the Licensee shall not produce, manufacture, distribute or sell any Licensed Products (save for production and manufacture of the samples for submission in accordance with this paragraph) unless and until the FFV approves those samples.

7.3 The Licensee must ensure that the standard, quality, design, materials and fabric of the Licensed Products must be identical in all respects to that in the sample of the Licensed Products approved by the FFV prior to any production, manufacture, distribution or sale of the Licensed Products.

7.4 The Licensee must not without the prior written consent of the FFV, vary the method of production, manufacture, distribution or sale of the Licensed Products, the use of the Marks on or in relation to the Licensed Products, the identity and quality of materials (including fabric) used in the production or manufacture of the Licensed Products, or the standard or the quality of the Licensed Products, nor substitute any goods of a like description nor cease to produce, manufacture, sell or supply the Licensed Products.

7.5 The Licensee must not advertise or promote the Licensed Products or use display material in respect of the Licensed Products until such time as such advertising, promotional or display material has been approved by the FFV. All advertising, promotional and display material shall conform to such samples of material approved by the FFV.

7.6 Notwithstanding clauses 7.1 and 7.2, the Licensee may produce manufacture and sell a Licensed Product which has not been first approved by the FFV provided that the quality, design (including but not limited to the identity, appearance, size and positioning of the Badges and Marks), dimensions, materials, fabric and pricing structure in respect of that Licensed Product has been previously approved by the FFV in respect of a similar Licensed Product.

8. OBLIGATIONS OF FFV

8.1 The FFV will provide to the Licensee the benefits described in Item 10 of the First Schedule on the terms and conditions set out therein.

9.0 COVENANTS OF THE LICENSEE

9.1 The Licensee covenants with the FFV that it:

- (a) will use the Badges and Marks only on or in relation to the Licensed Products, and will not use the Badges and Marks on any other goods, and shall not use the Badges and Marks in any manner likely to deceive

or cause confusion in trade or jeopardise the exclusiveness or distinctiveness of the Marks;

- (b) will assist the FFV in protecting and defending the Marks and shall provide any evidence required by the FFV for use in any proceedings either in respect of any infringement of the Marks by unauthorised users or involving any challenge to or defence of the rights of the FFV to the Marks;
- (c) will not do or permit or suffer to be done or omit to do anything in relation to the production, manufacture, sale, supply, distribution, advertising, promotion or display of the Licensed Products which would be likely to bring the Marks, the FFV or any business of the FFV into disrepute or ridicule or to expose the FFV to any liability or potential liability; and
- (d) will not engage in conduct, or make any representation, which may suggest to any person that the FFV is the manufacturer of any of the Licensed Products, that the Licensee is for any purposes the agent of or associated with the FFV, or that the Licensee manufactures, distributes, promotes or sells any of the Licensed Products on behalf of the FFV.

10. CONFIDENTIALITY

10.1 The Licensee will make no disclosure (whether direct or indirect) in relation to:

- (a) the Royalty rate set out in the First Schedule;
- (b) the Licence Fee and Minimum Royalty;
- (c) any Royalty paid or payable under this Agreement;
- (d) any other amounts paid or payable under this Agreement;
- (e) the methods of calculation of any payments due under this Agreement; or
- (f) any of other terms of this Agreement,

unless such disclosure is as required by law (in which case such disclosure shall be the minimum required by law and shall be on a confidential basis).

11. TERMINATION

11.1 The FFV shall have the right to terminate this Agreement and the licence hereunder granted pursuant to this Agreement by notice in writing to the Licensee upon the happening of any of the following events:

- (a) if the Licensee for any reason produces, manufactures, sells or distributes any Licensed Products that are in the opinion of the FFV of a standard or quality inferior to the standard or quality of the samples approved by the FFV pursuant to Clause 7 of this Agreement;
- (b) if the Licensee is in breach of its obligations such that the reputation of the Marks or the FFV is or is likely to be damaged;
- (c) if the Licensee defaults in the performance or observation of any of the obligations of the Licensee as set forth in this Agreement (it is understood and agreed that each and every term and condition in this agreement is a material term and condition, and that time is of the essence of this Agreement) and the Licensee fails to fully cure and correct such matter in default within seven (7) days of a notice from the FFV to remedy the same;
- (d) if the Licensee is a company:
 - (i) the Licensee stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
 - (ii) the Licensee is insolvent within the meaning of section 95A of the Corporations Act;
 - (iii) a court is required by reason of section 459C(2) of the Corporations Act to presume that the Licensee is insolvent;
 - (iv) the Licensee fails to comply with a statutory demand (within the meaning of section 459F(1) of the Corporations Act);
 - (v) an administrator is appointed over all or any of the assets or undertaking of the Licensee or any step preliminary to the appointment of an administrator is taken;
 - (vi) a controller within the meaning of section 9 of the Corporations Act or similar officer is appointed to all or any of the Licensee's assets or undertaking; or
 - (vii) an application or order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting or an application to a court or other steps are taken for the winding up or dissolution of the Licensee or for the Licensee to enter an

arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them;

- (e) the Licensee being an individual:
 - (i) dies;
 - (ii) ceases to be of full legal capacity; or
 - (iii) commits an act of bankruptcy or makes a composition with or assignment of his or her property in favour of creditors;
- (f) if any draft notes or cheques drawn or endorsed by the Licensee have been dishonoured; or
- (g) if the FFV or its assigns cease (for whatever reason) to have the right to grant the rights hereunder in respect of all of the Marks;

and thereupon all the liabilities and obligations of the FFV shall absolutely cease and determine.

12. RIGHTS ON TERMINATION

12.1 Provided the Licensee has complied with, observed and fulfilled its obligations under this Agreement, upon expiration of the Term, the Licensee shall have the right for a further period of sixty (60) days after the Completion Date (the “**Post Sales Period**”) to sell Licensed Products which are fully manufactured as at the Completion Date and which are at the Completion Date in the possession or control of the Licensee and in respect of which the Licensee has obligations at the time of termination to supply third parties.

Notwithstanding anything else in Clause 12, the Licensee shall not (as from expiration) be entitled to sell or otherwise distribute any other Licensed Products. The Licensee shall cease manufacture of Licensed Products upon expiration of the Term and all Licensed Products not sold within the Post Sales Period shall forthwith after that period be destroyed by the Licensee unless agreement can be reached with the FFV for sale of the same to the FFV or as the FFV otherwise allows.

12.2 The obligations of the Licensee and the rights of the FFV under this Agreement shall apply with full force and effect during the Post Sales Period.

12.3 Subject to the provisions of Clause 11 herein, any termination of this Agreement shall be without prejudice to the rights of either party against the other in respect of anything done or omitted hereunder prior to such

termination or in respect of any sums or other claims outstanding at the time of termination.

12.4 Upon termination of this Agreement by expiration or in accordance with Clause 11 the Licensee shall provide to the FFV complete, precise and clear details of the number and description of the Licensed Products:

- (a) manufactured but not sold;
- (b) manufactured, on hand but pre-sold;
- (c) in the course of manufacture as at the date of expiration or termination,

plus such other information as may be necessary to fairly appraise the FFV of the Licensee's stock on hand or in the course of manufacture as at the date of expiration or termination in accordance with Clause 11 and existing sales in relation to the same.

12.5 Upon termination of this Agreement pursuant to the provisions of Clause 11 the Licensee must forthwith:

- (a) cease manufacture of the Licensed Products;
- (b) destroy all Licensed Products in its possession or under its control unless agreement can be reached with the FFV for sale of the same to the FFV or as the FFV otherwise allows; and
- (c) cease to use the Marks in any manner whatsoever.

12.6 Without limiting Clause 12, each of Clauses 9, 10 and 12 of this Agreement shall continue to apply after termination of this Agreement.

13. INDEMNITY

13.1 The Licensee shall indemnify and keep indemnified the FFV and its servants or agents against any actions, proceedings, claims, demands, costs or expenses arising out of or in connection with:

- (a) any negligence of the Licensee, its servants or agents, or
- (b) misrepresentation or breach of any contractual stipulation as to the standard, quality or fitness of the Licensed Products by the Licensee its servants agents or employees, or
- (c) without limiting paragraph (b), any breach by the Licensee of any of the provisions of this Agreement, or

(d) the use of the Badges and Marks by the Licensee, its servants or agents,

and the FFV shall not be liable or responsible for any loss or damage suffered by the Licensee by reason of any act done or omitted by the FFV or its servants or agents (whether negligently or otherwise) in pursuance of, or in purported or attempted pursuance of this Agreement or by reason of the FFV's use of the Marks or otherwise.

14. COSTS AND STAMP DUTY

14.1 Each party shall bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All stamp duty (including fines, penalties and interest) which may be payable on or in connection with this Agreement and any instrument executed under this Agreement shall be borne by the Licensee.

15. NOTICES

15.1 Any notice, consent or other communication to be served or given to either party herein shall be in writing and shall be hand delivered or sent to the address of that party set out in this Agreement (for the FFV at the Commencement of this Agreement, for the Licensee as set out in Item 1 of the First Schedule) (or any other such address as one party may advise the other party in writing) or sent by facsimile and shall be deemed sufficiently served or given:

- (a) in the case of hand delivery; on the date of such delivery; or
- (b) in the case of registered post; three days after being sent by registered post; or
- (c) in the case of facsimile; on receipt by the sender of the answer back code of the recipient.

16. GOVERNING LAW

16.1 This Agreement shall be read interpreted and construed according to the laws of the State of Victoria and each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction there in connection with matters concerning this Agreement.

17. ENTIRE AGREEMENT

17.1 It is hereby expressly acknowledged and agreed by and between the parties hereto that the terms and conditions set out in this Agreement contain the entire agreement as concluded between the parties hereto notwithstanding any negotiations or discussions prior to the execution hereof and notwithstanding anything contained in any brochure, report or other document prepared by or for the FFV for submission to potential licensees or others and the Licensee further acknowledges that it has not been induced to enter into this Agreement by any representation verbal or otherwise made by or on behalf of the FFV which is not set out in this Agreement. Negotiations, discussions, documentary material and representations as aforesaid include, without limitation, any in relation to potential profitability or actual or potential markets or outlets for the Licensed Products.

EXECUTED by the parties in Melbourne as an agreement on the date set out above:

THE COMMON SEAL)
of the **FOOTBALL FEDERATION**)
VICTORIA INC was affixed)
hereto in the presence of)

name

name

title

title

THE COMMON SEAL)
of the **LICENSEE** was affixed)
hereto in the presence of)

name

name

title

title

FIRST SCHEDULE

1. The Licensee

2. Commencement Date

1 December 2006

3. Completion Date

30 November 2009

4. Licensed Products

Football shirts *and* shorts of clubs with Football Federation Victoria branding
Football socks of clubs with the licensed company's branding

5. Licence Fee

- ❖ For the period 1 December 2006 to 30 November 2007 - \$10,000 (plus GST) payable on 1 December 2006
- ❖ For the period 1 December 2007 to 30 November 2008 - \$10,000 (plus GST) payable on 1 December 2007
- ❖ For the period 1 December 2008 to 30 November 2009 - \$10,000 (plus GST) payable on 1 December 2008.

6. Territory

Victoria, Australia

7. Royalty

8% of Gross Sales

Minimum Royalty

- ❖ For the period 1 December 2006 to 30 November 2007 - \$8,000 (plus GST)
- ❖ For the period 1 December 2007 to 30 November 2008 - \$8,000 (plus GST)
- ❖ For the period 1 December 2008 to 30 November 2008 - \$8,000 (plus GST)

8. Royalty Period

Period Commencing	Period Ending	Invoice Date
1 December 2006	30 November 2007	1 March 2007
		1 June 2007
		1 September 2007
		30 November 2007
1 December 2007	30 November 2008	1 March 2008
		1 June 2008
		1 September 2008
		30 November 2008
1 December 2008	30 November 2009	1 March 2009
		1 June 2009
		1 September 2009
		30 November 2009

FFV will request sales reports at the end of each quarter. Invoices will then be raised based on the sales for that quarter. If the minimum royalty has not been reached at the end of the year, the balance will be invoiced.

Sales reports will be required on 28th February, 31st May, 31st August and 31st October each year.

8. Value of Licensed Products (or other items) to be provided annually to the FFV

\$2,500 (wholesale value)

9. Benefits to be provided to Licensee by FFV

10.1 During the term that the Licensee is an official Licensee of the FFV they will receive one advertisement per year on the FFV website at no cost, which will be displayed on the website for a minimum of 4 weeks per advertisement.

10.2 If requested by the Licensee to do so, the FFV will include advertising or other promotional material (“*advertising material*”) concerning the Licensee in a maximum of two mailouts annually to FFV members, affiliated leagues and organisations. The Licensee will pay for all costs of each mailout (including postage) and must provide to the FFV, at the Licensee’s cost, sufficient copies of the advertising material to be included in the mailout. The FFV may in its absolute discretion refuse to distribute any advertising material which it believes may bring any of the FFV, its members, affiliated leagues, affiliated organisations, sponsors, licensees or the game of football into disrepute. The Licensee warrants that the contents of the advertising material will be true and

correct and will not compete or infringe the rights of any third parties and the Licensee hereby agrees to indemnify the FFV against all claims, losses, liability, damages, costs or expenses which may be incurred or sustained by the FFV arising out of or in any way connected to the said advertising material or its distribution by the FFV.

- 10.3 If requested by the Licensee to do so, the FFV will include advertising or other promotional material (“*advertising material*”) concerning the Licensee at FFV League General Meetings held annually. The Licensee must provide to the FFV, at the Licensee’s cost, sufficient copies of the advertising material to be given to clubs at General Meetings. The FFV may in its absolute discretion refuse to distribute any advertising material which it believes may bring any of the FFV, its members, affiliated leagues, affiliated organisations, sponsors, licensees or the game of football into disrepute. The Licensee warrants that the contents of the advertising material will be true and correct and will not compete or infringe the rights of any third parties and the Licensee hereby agrees to indemnify the FFV against all claims, losses, liability, damages, costs or expenses which may be incurred or sustained by the FFV arising out of or in any way connected to the said advertising material or its distribution by the FFV.

10. Badge price

50 cents per unit

SECOND SCHEDULE

MARKS



NON EXCLUSIVE BALL LICENCE AGREEMENT

THIS AGREEMENT is made this day of 2006

BETWEEN:

1. **FOOTBALL FEDERATION VICTORIA INC.** of 281 Darebin Road, Thornbury, Victoria (the “**FFV**”); and
2. The Party specified in Item 1 of the First Schedule to this Agreement (the “**Licensee**”).

RECITALS:

- A. The FFV is the user and/or registered proprietor of the Marks.
- B. The Licensee wishes to use the Marks on various products.
- C. The FFV has agreed to license the Licensee on a non-exclusive basis to use the Marks on the Licensed Products in the Territory for the Term on the terms and conditions set out below.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

Unless the context otherwise requires, the following expressions in this Agreement have the meanings ascribed below:

“**Accounting Records**” means all books of account and other records of the Licensee that relate to Licensed Products including without limitation, the production, manufacture, distribution, sale, advertising or display of the Licensed Products;

“**Badges**” means badges on which the Marks are printed;

“**Club**” means a club which is named on the list provided by the FFV to the Licensee in accordance with Clause 3.4 and includes any members of that club;

“**Commencement Date**” means the date specified in Item 2 of the First Schedule;

“**Completion Date**” means the date specified in Item 3 of the First Schedule;

“**Gross Sales**” means the aggregate of:

- (a) the prices charged by the Licensee or by any person related to or associated with the Licensee in respect of the sale or supply of the Licensed Products (exclusive of sales tax) whether for cash or credit; and
- (b) if the Licensee or any person related to the Licensee agrees to accept, in respect of the supply of Licensed Products, consideration of goods and/or services or provides Licensed Products to anybody free of charge, the prices that would ordinarily be charged by the Licensee if the goods had been sold in the usual course of business at the usual price,

exclusive of all costs of sales, credit charges and any discounts given in respect of any Licensed Product by the Licensee to any person;

“**Licence**” means the licence described in Clause 3 of this Agreement;

“**Licence Fee**” means the licence fee described in Clause 5 of this Agreement;

“**Licensed Products**” means the products specified in Item 4 of the First Schedule;

“**Marks**” mean the trademarks, design, copyright materials and logos set out in the Second Schedule;

“**Retailer**” means a retailer as approved by the Football Federation Victoria;

“**Term**” means the period from the Commencement Date, and unless terminated in accordance with the provisions of this Agreement, to the Completion Date (inclusive);

“**Territory**” means the area specified in Item 6 of the First Schedule.

2. NON EXCLUSIVE LICENCE

2.1 The FFV hereby grants to the Licensee for use only in the Territory a non-exclusive, personal, non-transferable licence to:

- (a) affix the Badges on the Licensed Products for the purposes of the production, manufacture, distribution and sale of the Licensed Products to Clubs; and
- (b) use the Marks on such other items as agreed with the FFV for the purposes of advertising and displaying of Licensed Products.

2.2 The Licensee warrants that it will not:

- (a) produce, manufacture, distribute, sell, advertise or display the Licensed Products outside the Territory;

(b) produce, manufacture, distribute or sell any Licensed Products to any person other than a Retailer.

2.3 The Licensee acknowledges that the FFV may license other parties to use the Badges and Marks whether inside or outside the Territory for any purpose including without limitation a licence to affix the Badges and Marks on products of the same type or class as the Licensed Products.

2.4 On or before 1 January during each year of the Term, the FFV will provide to the Licensee a list of all clubs who are members of, or affiliated with, the FFV which list will remain in force during the relevant year except where notice of any amendment is given by the FFV to the Licensee. The list will be deemed to be amended as from the date such notice is given.

3. TERM

3.1 Notwithstanding the date that this Agreement is executed, the parties agree that, subject to the provisions of Clause 10, the period of the Licence is for the Term.

3.2 If the licensee fails to meet its obligations under the term of this agreement or is found to be in breach of this agreement, FFV may terminate the contract within three months of giving written notification.

3.3 (a) FFV may at its sole discretion impose a 12 month probation period, if the licensee cannot meet the stated obligations under the conditions of this Agreement.

(b) Nothing in this Clause shall prevent FFV from terminating this Licence in accordance with Clause 4.2 hereof.

4. FEES

4.1 In consideration of the right to use the Badges and Marks in accordance with the terms of this Agreement, the Licensee will pay to FFV an annual licence fee in the amount set out in Item 5 of the First Schedule on the dates set out in Item 5 of the First Schedule.

4.2 In addition to the payment of the Licence Fee the Licensee will provide to the FFV free of charge Licensed Products to the value of the amount set out in Item 7 of the First Schedule. If there is more than one different type or class of

product that falls within the definition of Licensed Products, then the types or classes of Licensed Products that are to be provided to the FFV in accordance with this clause will be as determined by the FFV.

5. FFV TO APPROVE LICENSED PRODUCTS AND DISPLAYS

- 5.1 The Licensee must not produce, manufacture, distribute or sell any Licensed Product, or any packaging for a Licensed Product, unless that good, product or packaging has first been approved by the FFV as to quality, design (including but not limited to the identity, appearance, size and positioning of the Badges and Marks), dimensions, materials, fabric and pricing structure.
- 5.2 The Licensee must submit for approval by the FFV such number of samples of each of the Licensed Products and packaging for the Licensed Products, as the FFV shall reasonably request, and the Licensee shall not produce, manufacture, distribute or sell any Licensed Products (save for production and manufacture of the samples for submission in accordance with this paragraph) unless and until the FFV approves those samples.
- 5.3 The Licensee must ensure that the standard, quality, design, materials and fabric of the Licensed Products must be identical in all respects to that in the sample of the Licensed Products approved by the FFV prior to any production, manufacture, distribution or sale of the Licensed Products.
- 5.4 The Licensee must not without the prior written consent of the FFV, vary the method of production, manufacture, distribution or sale of the Licensed Products, the use of the Marks on or in relation to the Licensed Products, the identity and quality of materials (including fabric) used in the production or manufacture of the Licensed Products, or the standard or the quality of the Licensed Products, nor substitute any goods of a like description nor cease to produce, manufacture, sell or supply the Licensed Products.
- 5.5 The Licensee must not advertise or promote the Licensed Products or use display material in respect of the Licensed Products until such time as such advertising, promotional or display material has been approved by the FFV. All advertising, promotional and display material shall conform to such samples of material approved by the FFV.
- 5.6 Notwithstanding clauses 5.1 and 5.2, the Licensee may produce manufacture and sell a Licensed Product which has not been first approved by the FFV provided that the quality, design (including but not limited to the identity, appearance, size and positioning of the Badges and Marks), dimensions, materials, fabric and pricing structure in respect of that Licensed Product has been previously approved by the FFV in respect of a similar Licensed Product.

6. OBLIGATIONS OF FFV

- 6.1 The FFV will provide to the Licensee the benefits described in Item 8 of the First Schedule on the terms and conditions set out therein.

7.0 COVENANTS OF THE LICENSEE

7.1 The Licensee covenants with the FFV that it:

- (a) will use the Badges and Marks only on or in relation to the Licensed Products, and will not use the Badges and Marks on any other goods, and shall not use the Badges and Marks in any manner likely to deceive or cause confusion in trade or jeopardise the exclusiveness or distinctiveness of the Marks;
- (b) will assist the FFV in protecting and defending the Marks and shall provide any evidence required by the FFV for use in any proceedings either in respect of any infringement of the Marks by unauthorised users or involving any challenge to or defence of the rights of the FFV to the Marks;
- (c) will not do or permit or suffer to be done or omit to do anything in relation to the production, manufacture, sale, supply, distribution, advertising, promotion or display of the Licensed Products which would be likely to bring the Marks, the FFV or any business of the FFV into disrepute or ridicule or to expose the FFV to any liability or potential liability; and
- (d) will not engage in conduct, or make any representation, which may suggest to any person that the FFV is the manufacturer of any of the Licensed Products, that the Licensee is for any purposes the agent of or associated with the FFV, or that the Licensee manufactures, distributes, promotes or sells any of the Licensed Products on behalf of the FFV.
- (e) The supplier shall make footballs referred to available in outlets throughout the State for purchase by FFV members. The supplier shall not sell licensed products bearing FFV intellectual property directly to a participating member club.

8. CONFIDENTIALITY

8.1 The Licensee will make no disclosure (whether direct or indirect) in relation to:

- (a) the Royalty rate set out in the First Schedule;
- (b) the Licence Fee and Minimum Royalty;
- (c) any Royalty paid or payable under this Agreement;

(d) any other amounts paid or payable under this Agreement;

- (e) the methods of calculation of any payments due under this Agreement; or
- (f) any of other terms of this Agreement,

unless such disclosure is as required by law (in which case such disclosure shall be the minimum required by law and shall be on a confidential basis).

9. TERMINATION

9.1 The FFV shall have the right to terminate this Agreement and the licence hereunder granted pursuant to this Agreement by notice in writing to the Licensee upon the happening of any of the following events:

- (a) if the Licensee for any reason produces, manufactures, sells or distributes any Licensed Products that are in the opinion of the FFV of a standard or quality inferior to the standard or quality of the samples approved by the FFV pursuant to Clause 5 of this Agreement;
- (b) if the Licensee is in breach of its obligations such that the reputation of the Marks or the FFV is or is likely to be damaged;
- (c) if the Licensee defaults in the performance or observation of any of the obligations of the Licensee as set forth in this Agreement (it is understood and agreed that each and every term and condition in this agreement is a material term and condition, and that time is of the essence of this Agreement) and the Licensee fails to fully cure and correct such matter in default within seven (7) days of a notice from the FFV to remedy the same;
- (d) if the Licensee is a company:
 - (i) the Licensee stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
 - (ii) the Licensee is insolvent within the meaning of section 95A of the Corporations Act;
 - (iii) a court is required by reason of section 459C(2) of the Corporations Act to presume that the Licensee is insolvent;
 - (iv) the Licensee fails to comply with a statutory demand (within the meaning of section 459F(1) of the Corporations Act);
 - (v) an administrator is appointed over all or any of the assets or undertaking of the Licensee or any step preliminary to the appointment of an administrator is taken;

- (vi) a controller within the meaning of section 9 of the Corporations Act or similar officer is appointed to all or any of the Licensee's assets or undertaking; or
 - (vii) an application or order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting or an application to a court or other steps are taken for the winding up or dissolution of the Licensee or for the Licensee to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them;
- (e) the Licensee being an individual:
- (i) dies;
 - (ii) ceases to be of full legal capacity; or
 - (iii) commits an act of bankruptcy or makes a composition with or assignment of his or her property in favour of creditors;
- (f) if any draft notes or cheques drawn or endorsed by the Licensee have been dishonoured; or
- (g) if the FFV or its assigns cease (for whatever reason) to have the right to grant the rights hereunder in respect of all of the Marks;

and thereupon all the liabilities and obligations of the FFV shall absolutely cease and determine.

10. RIGHTS ON TERMINATION

10.1 Provided the Licensee has complied with, observed and fulfilled its obligations under this Agreement, upon expiration of the Term, the Licensee shall have the right for a further period of sixty (60) days after the Completion Date (the “**Post Sales Period**”) to sell Licensed Products which are fully manufactured as at the Completion Date and which are at the Completion Date in the possession or control of the Licensee and in respect of which the Licensee has obligations at the time of termination to supply third parties.

Notwithstanding anything else in Clause 12, the Licensee shall not (as from expiration) be entitled to sell or otherwise distribute any other Licensed Products. The Licensee shall cease manufacture of Licensed Products upon expiration of the Term and all Licensed Products not sold within the Post Sales Period shall forthwith after that period be destroyed by the Licensee unless agreement can be reached with the FFV for sale of the same to the FFV or as the FFV otherwise allows.

- 10.2 The obligations of the Licensee and the rights of the FFV under this Agreement shall apply with full force and effect during the Post Sales Period
- 10.3 Subject to the provisions of Clause 9 herein, any termination of this Agreement shall be without prejudice to the rights of either party against the other in respect of anything done or omitted hereunder prior to such termination or in respect of any sums or other claims outstanding at the time of termination.
- 10.4 Upon termination of this Agreement pursuant to the provisions of Clause 9 the Licensee must forthwith:
- (a) cease to use the Marks in any manner whatsoever.
- 10.5 Without limiting Clause 10, each of Clauses 7, 8, 10 and 11 of this Agreement shall continue to apply after termination of this Agreement.

11. INDEMNITY

- 11.1 The Licensee shall indemnify and keep indemnified the FFV and its servants or agents against any actions, proceedings, claims, demands, costs or expenses arising out of or in connection with:
- (a) any negligence of the Licensee, its servants or agents, or
 - (b) misrepresentation or breach of any contractual stipulation as to the standard, quality or fitness of the Licensed Products by the Licensee its servants agents or employees, or
 - (c) without limiting paragraph (b), any breach by the Licensee of any of the provisions of this Agreement, or
 - (d) the use of the Badges and Marks by the Licensee, its servants or agents,

and the FFV shall not be liable or responsible for any loss or damage suffered by the Licensee by reason of any act done or omitted by the FFV or its servants or agents (whether negligently or otherwise) in pursuance of, or in purported or attempted pursuance of this Agreement or by reason of the FFV's use of the Marks or otherwise.

12. COSTS AND STAMP DUTY

12.1 Each party shall bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All stamp duty (including fines, penalties

and interest) which may be payable on or in connection with this Agreement and any instrument executed under this Agreement shall be borne by the Licensee.

13. NOTICES

13.1 Any notice, consent or other communication to be served or given to either party herein shall be in writing and shall be hand delivered or sent to the address of that party set out in this Agreement (for the FFV at the Commencement of this Agreement, for the Licensee as set out in Item 1 of the First Schedule) (or any other such address as one party may advise the other party in writing) or sent by facsimile and shall be deemed sufficiently served or given:

- (a) in the case of hand delivery; on the date of such delivery; or
- (b) in the case of registered post; three days after being sent by registered post; or
- (c) in the case of facsimile; on receipt by the sender of the answer back code of the recipient.

14. GOVERNING LAW

14.1 This Agreement shall be read interpreted and construed according to the laws of the State of Victoria and each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction there in connection with matters concerning this Agreement.

15. ENTIRE AGREEMENT

15.1 It is hereby expressly acknowledged and agreed by and between the parties hereto that the terms and conditions set out in this Agreement contain the entire agreement as concluded between the parties hereto notwithstanding any negotiations or discussions prior to the execution hereof and notwithstanding anything contained in any brochure, report or other document prepared by or for the FFV for submission to potential licensees or others and the Licensee further acknowledges that it has not been induced to enter into this Agreement by any representation verbal or otherwise made by or on behalf of the FFV which is not set out in this Agreement. Negotiations, discussions, documentary material and representations as aforesaid include, without limitation, any in relation to potential profitability or actual or potential markets or outlets for the Licensed Products.

EXECUTED by the parties in Melbourne as an agreement on the date set out above:

THE COMMON SEAL)
of the **FOOTBALL FEDERATION**)
VICTORIA INC was affixed)
hereto in the presence of)

name

name

title

title

THE COMMON SEAL)
of the **LICENSEE** was affixed)
hereto in the presence of)

name

name

title

title

FIRST SCHEDULE

1. The Licensee

**Eagle Sports
20 – 22 Braeside Drive
Braeside Victoria 3195**

ABN 13 794 334 635

2. Commencement Date

1 December 2006

3. Completion Date

30 November 2009

4. Licensed Products

Patrick Footballs:
Heroica
Solsona
SpectraPurist Pro
Genesis
Trophy
Atomic
Fusion
Super Cup

5. Licence Fee

- ❖ For the period 1 December 2006 to 30 November 2007 - \$6,000 (plus GST) payable on 1 December 2006
- ❖ For the period 1 December 2007 to 30 November 2008 - \$6,000 (plus GST) payable on 1 December 2007
- ❖ For the period 1 December 2008 to 30 November 2009 - \$6,000 (plus GST) payable on 1 December 2008.

6. Territory

Victoria, Australia

7. Value of Licensed Products (or other items) to be provided annually to the FFV

\$4,000 (wholesale value)

8. Benefits to be provided to Licensee by FFV

8.1 During the term that the Licensee is an official Licensee of the FFV they will receive one advertisement per year on the FFV website at no cost, which will be displayed on the website for a minimum of 4 weeks per advertisement.

8.2 If requested by the Licensee to do so, the FFV will include advertising or other promotional material (“*advertising material*”) concerning the Licensee in a maximum of two mailouts annually to FFV members, affiliated leagues and organisations. The Licensee will pay for all costs of each mailout (including postage) and must provide to the FFV, at the Licensee’s cost, sufficient copies of the advertising material to be included in the mailout. The FFV may in its absolute discretion refuse to distribute any advertising material which it believes may bring any of the FFV, its members, affiliated leagues, affiliated organisations, sponsors, licensees or the game of football into disrepute. The Licensee warrants that the contents of the advertising material will be true and

correct and will not compete or infringe the rights of any third parties and the Licensee hereby agrees to indemnify the FFV against all claims, losses, liability, damages, costs or expenses which may be incurred or sustained by the FFV arising out of or in any way connected to the said advertising material or its distribution by the FFV.

8.3 If requested by the Licensee to do so, the FFV will include advertising or other promotional material (“*advertising material*”) concerning the Licensee at FFV League General Meetings held annually. The Licensee must provide to the FFV, at the Licensee’s cost, sufficient copies of the advertising material to be given to clubs at General Meetings. The FFV may in its absolute discretion refuse to distribute any advertising material which it believes may bring any of the FFV, its members, affiliated leagues, affiliated organisations, sponsors, licensees or the game of football into disrepute. The Licensee warrants that the contents of the advertising material will be true and correct and will not compete or infringe the rights of any third parties and the Licensee hereby agrees to indemnify the FFV against all claims, losses, liability, damages, costs or expenses which may be incurred or sustained by the FFV arising out of or in any way connected to the said advertising material or its distribution by the FFV.

SECOND SCHEDULE

MARKS

