



## SHOWROOM LICENCE AGREEMENT

THIS AGREEMENT, IS MADE ON 01 September, 2019 (hereafter called “Agreement”)

between

**AUTOMATIC SOLUTIONS AUSTRALIA PTY LTD ACN 118 383 574**, of 1 Meares Way, Canning Vale, Western Australia, 6155 (hereafter also referred to as “Licensor”)

And

Mabelle Nominees Pty Ltd (ABN 90 092 135 218) with its place of business for the retail sale of Licensor products covered under this Agreement located at Suburb Canning Vale in the State of Western Australia, Postcode 6155 (hereafter also referred to as “Licensee”).

### OPERATIVE PART

#### 1. PURPOSE

This Agreement is to establish a relationship between Licensor and Licensee for the establishment of a retail showroom (hereafter also referred to as “Branch”) for the retail sale of Licensor’s products including parts and accessories therefore (hereafter called “Products”) in the trade area served by Licensee and to set out the obligations and rights of the parties.

#### 2. TRADE AREA

Licensor shall not appoint any other licensees or allow any other licensees to be established within the trade area (hereafter called “Territory”) and better defined in Annexure 1 attached hereto (“Territory”) for Products, providing Licensee abides by terms set forth in this Agreement. Furthermore Licensor will advise Licensee in writing as soon as reasonably practicable and in any event within 14 days of any application or consideration to establish a new Branch and/or relocate an existing licensee within the State in which Licensee has his place of business and Licensee may make written submission to Licensor for consideration of any concerns Licensee has with such application or consideration. In the case of new Branch applications or considerations, existing licensees within the State covered by the application or consideration will be given first option to establish the new Branch, and further, in the case where more than one existing licensee expresses a desire to establish the new Branch, priority will be afforded to the existing licensee in closest proximity.

#### 3. TERMS OF SALE

Upon acceptance by Licensor of a Licensee order for Products, terms of purchase will be as set forth in Licensor’s most currently published “TERMS AND DISCOUNT SCHEDULE” further defined in Annexure 1 attached hereto. Licensor will have the right to change the Product offering and the terms and prices therefore at anytime and from time to time. Prices and terms for Products shall be those in effect on the date Licensor accepts the Licensees order.

#### 4. CREDIT

When credit is extended to Licensee, Licensee agrees that title to all Products with right of repossession for default shall remain with Licensor until the purchase price is paid in full subject to any applicable law. Licensor may suspend or reduce Licensees credit limit, or take what other steps necessary to protect Licensor’s interest.

## 5. WARRANTY

Licensor products are sold subject only to applicable Licensor standard warranty in effect at time of sale and such warranty shall be subject at all times to the operation of applicable law including the Australian Consumer Law set out under the *Competition and Consumer Act 2010 (Cth)*. Licensee is not authorised to assume, on Licensor's behalf, any liabilities in connection with Licensee's sale of Product other than as set forth in such Licensor standard warranty or as set out under applicable law. Licensee shall indemnify and hold Licensor harmless with respect to any Licensee representation beyond those in such Licensor warranty. To the fullest extent permissible under law, the LICENSOR MAKES NO WARRANTY OF MERCHANTABILITY ACCEPTABLE QUALITY OR FITNESS FOR A COMMON OR DISCLOSED PURPOSE.

## 6. DELIVERY

Licensor shall use its best efforts to expedite all purchase orders submitted by the Licensee to the Licensor. In any event, however Licensor shall be free to either accept or refuse any such orders on the basis of availability. Every effort will be made to advise Licensee prior to acceptance of orders, of accurate estimates of delivery schedules; however Licensor shall not be responsible for delays in delivery, failure to deliver Products on time or to fill orders when such delay or failure results from causes beyond Licensor's control.

Delivery charges shall be as set forth in Licensor's most currently published "DELIVERY SCHEDULE" further defined in Annexure 1 attached hereto. Licensor will have the right to change the delivery charges at anytime and from time to time. Prices and terms for delivery shall be those in effect on the date Licensor accepts the Licensee order.

## 7. LICENCE FEE

Licensor shall on an annual basis invoice to Licensee a Licence Fee to maintain and continue Agreement. The invoiced value of Licence Fee will be as set forth in Licensor's most currently published "LICENCE SCHEDULE" further defined in Annexure 1 attached hereto. Licensor will have the right to change the Licence Fee on an annual basis limited to the average change in the previous five years of the Australian Consumer Price Index (CPI) as published by the Australian government.

## 8. RESPONSIBILITY OF LICENSEE

Licensee shall:

- (A) In addition to the obligations specifically provided for hereunder, Licensee shall undertake to promote the sale of Products in Licensee's trade area and provide a timely, efficient and adequate parts and maintenance service to ensure satisfaction on the part of users of the Products, in the most effective manner to safeguard the interests of Licensor with the care and due diligence of a responsible business person.
- (B) Establish and maintain in good order and repair, premises to be used to display and demonstrate Products in the area served by the Licensee, satisfactory to the Licensor (hereafter called "Showroom").
- (C) Provide and erect suitable commercial quality signage to Showroom featuring Licensor's trademark as approved by Licensor. Retail customers should not be confused as to the name and purpose of Showroom.
- (D) Maintain an inventory of Products in keeping with the sales potential in the area served by the Licensee and satisfactory to Licensor further defined in Annexure 1 attached hereto (Inventory).
- (E) Carefully store and care for all Products for which the Licensee is indebted to Licensor under this agreement and protect the same from damage or loss from any cause. Licensee shall maintain insurance of the types and amounts necessary to satisfactorily cover all unforeseen circumstances.
- (F) Promote the sale of Products, through, but not limited to, advertising, promotional days, field demonstrations and other applicable methods using Licensor's advertising and/or promotion material as provided by Licensor.
- (G) Extend to Licensee's customers Licensor's applicable standard warranty which is in effect at the time of retail sale. Licensee understands that no other warranty subject to applicable law is expressed or implied.
- (H) Properly staff and train personnel in the area of sales and service with respect to Products and to ensure that said trained staffs are available in Showroom Monday to Friday (excluding public holidays) between the hours of 9.00am and 4.30pm for public enquiry. (Licensee is free to trade outside these hours).
- (I) Provide a complete installation service for Products and explain proper operating and safety instructions to Licensee's retail customers. Licensee's retail customers are to have a single point of contact and invoice for the sale and installation of Product.

- (J) Implement and maintain professional levels of installation and service practice as determined from time to time by Licensor's published training and performance manuals.
- (K) Ensure that any member Licensees staff allocated a task is adequately trained and equipped for performing said task in a safe and professional manner.
- (L) Rectify as directed by Licensor all and any matter of non compliance with Licensor's published training and performance manuals in a swift, timely and professional manner.
- (M) Obtain written consent of Licensor if Licensee intends to open any additional business location for the sale or service of Products at any location other than the business location further defined in Annexure 1 attached hereto (Territory).
- (N) Encourage customers to use Licensor's original equipment parts in the repair and replacement of Products in order to maintain the Products performance and quality. Licensee shall not represent non original equipment parts as Licensor original equipment parts.

## 9. TERM

The term of this Agreement shall be for a period of five years, commencing on the effective date hereof. This Agreement shall be automatically renewed for successive terms of five years each unless Licensee shall give Licensor notice of non-renewal not less than 120 days prior to the end of the then current term or unless this Agreement is otherwise terminated as provided herein.

## 10. TERMINATION

Subject to applicable law, the Licensee may terminate this Agreement without cause and for any reason, upon not less than 120 days written notice given to Licensor. Licensor may terminate this Agreement immediately in the event of bankruptcy or insolvency of Licensee, Licensees failure to pay any amounts owing Licensor when due. Licensor may terminate this Agreement immediately in the event of Licensees failure to comply with a material term of this Agreement, provided that Licensor has given Licensee written notice of Licensees failure to comply and that Licensee has not taken reasonable action to remedy said breach within 14 days of written notice by Licensor. Upon termination for any reason, all amounts owed to Licensor will become immediately due and payable.

## 11. TRADEMARKS/TRADE NAMES

Licensee is hereby licensed to use Licensor's name and trademarks in the normal course of distributing Licensor's Products and performing related services under this Agreement. Licensee agrees not to use Licensor's name as part of Licensees name or in any manner which would misrepresent the relationship between Licensee and Licensor. Licensee may represent himself as an "authorised dealer" of Licensor, and, with prior approval from Licensor, may use Licensor's name and product related trademarks on signs or other advertising or promotional material. Licensees licence to use Licensor's name and trademarks is limited and Licensee shall abide by restrictions and limitations imposed by Licensor from time to time. Upon termination of this Agreement, Licensee shall immediately cease representing himself as a Licensee of Licensor and shall cease use of all Licensor names and trademarks and any signs or other material, of whatever nature, identifying licensee as a dealer of Licensor shall be removed or obliterated.

## 12. PRICING

Licensee agrees to sell product at Licensor's published retail prices as defined from time to time by Licensor's published price list and / or Licensor's published advertising and furthermore Licensee agrees neither to increase nor discount published prices in a manner that is likely to cause confusion and / or embarrassment to public, Licensor and / or other Licensees so long as Licensor's published prices maintain Licensees stated margins as better defined in Annexure 1 attached hereto ("TERMS AND DISCOUNT SCHEDULE").

## 13. NOTICES

- (1) A notice or other communication required or permitted to be given by a party to another shall be in writing and
  - (a) delivered personally;
  - (b) by prepaid mail or document exchange; or
  - (c) sent by electronic mail (Email) transmission.
- (2) A notice or other communication shall be deemed to have been given when:
  - (a) personally delivered, upon delivery;
  - (b) mailed or delivered by document exchange, 48 hours after posting; or
  - (c) sent by email communication, when the mail server confirms transmission.

14. GENERAL

A. For the life of this Agreement, Licensee hereby undertakes not to deal in, represent, manufacture, sell or distribute, without the prior written authorisation and consent of Licensor, any products similar or in competition with Products.

B. Licensee is not an agent of Licensor nor is Licensee authorised to incur any obligations or make any representations on behalf of Licensor.

C. Licensee may not assign this Agreement or any provisions thereof to another licensee or party without the written approval of Licensor. Furthermore any assignment of this Agreement to another licensee or party shall be lodged via Licensor’s written published licence application format and shall be subject to Licensor’s normal approval process. Furthermore Licensor may not unreasonably withhold consent to Licensees request for assignment of this Agreement.

D. If any provision of this Agreement shall be held unenforceable, then the remainder of this Agreement shall not be affected thereby.

E. No waiver by Licensor of any default under this Agreement by Licensee shall be deemed a waiver of any prior or subsequent default by Licensee hereunder.

F. All understandings and agreements between the parties are contained in this Agreement which supersedes and terminates all other agreements between the parties. The rights of either party pertaining to Products sold by Licensor to Licensee under previous arrangements will be governed by this Agreement, provided, however, that nothing contained in this Agreement will, in any way, alter or change the rights and obligations of the parties pursuant to any security agreements or other agreements presently in existence.

G. Licensor reserves the right to modify and/or update this Agreement consistent with the modification and/or updating of all agreements Licensor has with other similar licensees, and replace or substitute such modified or updated agreement for this Agreement and such replacement or substitution shall not constitute termination of this Agreement. Failure of Licensee to execute such replacement or substitution agreement within 30 days of it being offered shall constitute automatic termination of this Agreement by Licensee.

H. Licensee agrees that application of any provision of this Agreement or related documents, or any other change implemented by Licensor, if equally applied to all other similar Licensor licensees, shall not constitute a change in the competitive circumstances of Licensee.

I. Licensee acknowledges that Annexure 1 forms part of this Agreement

J. This Agreement will be governed by the laws of the State of Western Australia and the parties hereby submit themselves to the jurisdiction of the courts of Western Australia.

K. Each party hereby releases the other from any claim, liability or responsibility pursuant to this agreement concerning the other party's failure to perform any obligation where such failure is due to strike, lockout, riot, industrial action, fire, storm, tempest, act of God, material shortage, government law or regulation or requirement or any other cause beyond the control of the other party and no such failure shall entitle a party to terminate this agreement.

**EXECUTED AS AN AGREEMENT**

EXECUTED BY  
Mabelle Nominees Pty Ltd

By - Trent Bindon

Title - \_\_\_\_\_

Date - \_\_\_\_/\_\_\_\_/\_\_\_\_ .....

EXECUTED BY  
Automatic Solutions Australia Pty Ltd

By - Paul Bindon

Title - Director

Date - \_\_\_\_/\_\_\_\_/\_\_\_\_ .....

# Annexure 1

This annexure forms part of the Agreement between Automatic Solutions Australia (“Licensor”) and Mabelle Nominees Pty Ltd (“Licensee”) made on 01/09/2019.

## 1. TERRITORY

Territory is defined as Licensees place of business and area surrounding said place of business by a radius of 30 kilometres. Licensee place of business is 146 Bannister Road Canning Vale in the state of Western Australia.

## 2. INVENTORY

Licensee shall maintain reasonable inventory consistent with sales potential of Territory and not less than \$70,000 cost price not including GST.

## 3. TERMS AND DISCOUNT SCHEDULE

Licensee shall purchase Product at published retail price as defined by current price book less 41%. (40% plus 1% warranty recompense)

Licensor will extend 15 days credit from date of invoice to Licensee. Licensee will pay by electronic funds transfer to Licensor’s nominated bank account the full amount of any invoice within 15 days of invoice. Invoice date will be the same as or following dispatch of Product date to Licensee.

## 4. DELIVERY SCHEDULE

Licensor will deliver all orders with an invoice value equal to or greater than \$5000.00 not including GST free of any delivery charge to Licensee.

Licensor will deliver all orders with an invoice value of less than \$5000.00 not including GST by the most economical and efficient means known to Licensor giving consideration to any instruction from Licensee concerning delivery. Cost of said delivery will be charged on Licensees invoice. Cost of delivery has no effect on the \$5000.00 value and is not taken into consideration in determining this value.

## 5. ADVERTISING & MARKETING

Licensor will provide ongoing advertising and marketing support to Licensee on a “share cost basis”. Licensor will produce and maintain online marketing for the benefit of all Licensees the cost of which will be shared by all current Licensees on a “user pays basis” and invoiced quarterly. Licensor will use current analytical data to determine Licensee share of cost and provide a supporting quarterly report with the invoice. Licensor will provide and apply a rebate equal to 4% of Licensee purchases in the quarter corresponding to the quarterly invoice.

Licensor will consider additional advertising and marketing proposals from Licensee and provide further support on a “share cost basis” to well supported proposals.

Licensor can withdraw advertising and marketing support if Licensee fails to comply with a material term of this Agreement.

## 6. LICENCE SCHEDULE

Licensee shall pay annually when invoiced by Licensor a Licence Fee to maintain Agreement. Licence Fee is currently 1% of total of all Licensee purchases of Licensor Product in the preceding year and will be adjusted annually as defined in Agreement. Licensor will adjust Licence fee and will invoice Licensee during the month of September each year.

LICENSEE - \_\_\_\_\_ DATE - \_\_\_\_/\_\_\_\_/\_\_\_\_

LICENSOR - \_\_\_\_\_ DATE - \_\_\_\_/\_\_\_\_/\_\_\_\_