



New Zealand Cosmetic Teeth Whitening Association

Te Kāhui Whakapūaho Niho o Aotearoa

Explanation:

Please Note that this WHOLE agreement is in TWO SEPARATE PARTS ;
both parts form the whole agreement

1. PART ONE is the MEMBERSHIP APPLICATION FORM

It is your application to join the New Zealand Cosmetic Teeth Whitening Association

2. PART TWO is the NZCTWA INTELLECTUAL PROPERTY LICENSE AGREEMENT.

This Intellectual Property License Agreement (IPLA) is required from all member applicants who wish to use any of the Associations Intellectual property and/or Trade Marks Pursuant to PART ONE (b) of the Membership Application below; the purpose of the IPLA is to legally reserve the use of the NZCTWA' s Intellectually property to paid up members only

MEMBERSHIP APPLICATION

PART ONE:

- (a) I/We, the undersigned, hereby apply to become a member of the New Zealand Cosmetic Teeth Whitening Association. I have received copies and have read the Associations Code of Conduct & Practice [the Code] and the Constitution & Rules of the Association. I agree with the Code, Constitution and the Rules of the Association and willingly agree to participate in any endeavour of the Association to achieve its objectives as a professional group as they are agreed by the majority of members at a formally constituted meeting of the Association.
- (b) I understand that as a member I will be provided with a copy of the NZCTWA logo that I am authorized to use these subject to my completing PART TWO hereof within my marketing and packaging in conjunction with the words 'Certified Member of' PROVIDED I/we are paid-up members of the Association
AND if I am a Practitioner, meet the Practitioner training requirements of the Code. In addition, I understand that annually with renewal of my membership for another year, I will also receive an annual certificate of membership that I may display publically and I will receive an annual confidential password to the members only section of the Associations website

MEMBERS REPRESENT FOUR GROUPS:

1. Cosmetic Teeth Whitening Practitioners of the Beauty & Appearance Enhancement Industry who have undergone training to the standards required by the NZCTWA code of Conduct and Practice
2. Manufacturers, distributors, suppliers of Over-The-Counter [OTC] Teeth Whitening products sold for Consumer use
3. Manufacturers, distributors, suppliers of Teeth Whitening Systems & Consumables for Professional use
4. Franchise/Licensee of a Member Franchisor/Licensor

Please indicate your group:

You may tick more than one box; Strike out any words that don't apply to you

- OTC Manufacturer, distributor, supplier
- Cosmetic Teeth Whitening Practitioner – In clinic, or mobile service
- Manufacturer, distributor, supplier, franchisor/licensor of Teeth Whitening Systems
- Franchisee/Licensee > Name of Franchisor/Licensor:
.....
- Associate Member pursuant to Section 5(b) of the Constitution & Rules of the NZCTWA

MEMBERSHIP FEE: *(includes gst)*

The NZCTWA Executive sets Membership fees annually

There are 3 - groups of Membership:

1. Full membership (section 5(a) of Constitution) per NZ manufacturer, distributor, supplier, franchisor/licensor
2. Franchisee/licensee of a franchisor/licensor member
3. Associate Members (section 5(b) of Constitution)

A list of NZCTWA Fees is available from info@nzctwa.org.nz

PRACTITIONERS TRAINING FEE:

For full membership, a requirement for Practitioners is that their training meets the standards of the NZCTWA Code of Conduct and Practise – To facilitate this; the NZCTWA offers a Professional training course. Training courses operate with the entire professional support of the Dentists, Chemists & Global Teeth Whitening experts of some of the World's foremost Teeth Whitening authorities. The NZCTWA Executive sets training fees annually

PAYMENT BY BANK TRANSFER:

After acceptance, payment fees should be made within 7-days of your receipt of the Associations Invoice; Payment by bank transfer is preferred...full details appear on your invoice

FORMALISING YOUR MEMBERSHIP

Following clearance of your membership payment a NZCTWA letter will confirm your membership.

If you are a Practitioner, full membership will be subject to the requirements for training contained within the NZCTWA Code of Conduct & Practice

Notification will also include your confidential password to the 'members only' section of the associations website and contain your personalised certificate of membership for the membership year

PART TWO:

Please Note: Pursuant to PART ONE (b) of the Membership Application, this Intellectual Property License Agreement (IPLA) is required from all member applicants to enable them to use the Associations Intellectual property and/or Trade Marks pursuant to CLAUSE 1 and 2 herein below; the purpose of the IPLA is to legally reserve the use of the NZCTWA's Intellectual property to paid up members only. The right to use the NZCTWA's Intellectual property will expire immediately the member ceases membership and/or by not renewing their Membership by paying the membership fee each year

INTELLECTUAL PROPERTY LICENSE AGREEMENT

This INTELLECTUAL PROPERTY LICENSE AGREEMENT ("Agreement" hereon) is between the NEW ZEALAND COSMETIC TEETH WHITENING ASSOCIATION (NZCTWA) ("Licensor"), and the LICENSEE named in SCHEDULE ONE hereof ("Licensee").

TERMS HEREIN

Licensor and Licensee are sometimes referred to herein individually as, "Party" and collectively as, the "Parties."

Licensor is sometimes referred to herein as the "Association"; the term herein Licensor and Association are interchangeable and both mean the NEW ZEALAND COSMETIC TEETH WHITENING ASSOCIATION (NZCTWA)

Licensee is sometimes referred to herein as the "Member"; the term herein Licensee and Member are interchangeable and both mean a certified member of the NEW ZEALAND COSMETIC TEETH WHITENING ASSOCIATION (NZCTWA)

WHEREAS

- A The Association has an exclusive licence and authority to operate, market and promote the Associations business and the other associated services developed by the Association in New Zealand
- B The Member wishes to:-
Accept from the Association a licence to use the Intellectual Property and Trade Marks in New Zealand to market and promote the Parties business on the terms and conditions of this Agreement

The Parties Agree that:

1. "Intellectual Property" means the Associations:-

- (a) Name being the Associations Name in either full or abbreviated forms,
- (b) Website name & email addresses
- (c) Trade Marks and Logos
- (d) All promotional documentation,
- (e) All operational documentation,
- (f) All documentation relating to the meetings of the Association and/or Executive committee
- (g) All fact sheets
- (h) All training materials
- (i) All training certificates

- (j) All membership certificates
- (k) All registration certificates
- (l) Copyright in all written and/or printed material relating to the Business of the Association
- (m) Copyright in all computer software, documents, files and electronically stored information relating to the Business of the Association
- (n) Copyright in the Information.

2. “Trade Marks” means the trademarks, logos and other names as may be approved from time to time by the Association for use in the Associations Business, whether or not they are legally registered.

3. The Term of this agreement

shall begin on the commencement date of:

- (a) Pursuant to CLAUSE 1 (a, b, c, d, e, f, g, j, l, m, n) herein, the Member being accepted by the Association for membership of the Association
- (b) Pursuant to CLAUSE 1 (h, l, k) herein, the Member completing the Associations Registered Practitioners training course and being accepted by the Association as a ‘Registered Teeth Whitening Practitioner’
- (c) The term shall continue for one calendar year and provided the Member is not in default or breach of the Constitution and Rules AND the Code of Conduct of the Association AND any obligation imposed upon the Member by this agreement AND if all amounts legally due to the Association have been paid within the trading terms of the Association during the term, this **INTELLECTUAL PROPERTY LICENSE AGREEMENT** will be deemed automatically renewed for a further year, and so on from year to year for so long as the Licensee is a Member of the New Zealand Cosmetic Teeth Whitening Association

4. GRANT OF LICENCE

- (a) Subject to the provisions of this Agreement, the Association **GRANTS** to the Member and the Member **ACCEPTS** a licence to use the Intellectual Property of the Association for the Term for the purposes of marketing and promoting the Parties Business.
- (b) The Association warrants that it has the right to use and grant licences to use the Intellectual property and further warrants it has full powers and authorities to enter into this Agreement and to carry out the terms and conditions hereof. The Association further warrants that it is unaware of any impediment to the Member using the Intellectual Property of the Association.
- (c) The granting of the licence pursuant to this Agreement is individual to the Member. No person other than the Member shall be authorised to be or to represent himself or herself as a Member pursuant hereto.

5. INTELLECTUAL PROPERTY

5.1 The Association’s Name

- (a) The Member is not permitted to register a company name or email address or internet address incorporating the name, abbreviations of the name or trade marks of the Association

- (b) The Member shall immediately upon the expiration or termination of this Agreement, cease to trade or conduct their Business using the Associations Intellectual property.
- (c) The Member agrees to use the Intellectual property and Trade Marks of the Association for marketing and business identification only, unless otherwise authorised in writing by the Association.
- (d) The Member acknowledges and agrees that the copyright of the Information supplied by the Association to the Member shall at all times remain the sole property of the Association and the Member hereby waives any right or interest in the information.
- (e) The licence to use the Intellectual Property of the Member is individual to the Member and the Member shall not assign transfer or otherwise deal with the licence
- (f) The Member shall only utilise the Intellectual Property and specifically the Trade Marks of the Association in their approved form. The Member shall not use the trademarks in any other form or for any other purposes other than in operation of the Parties Business without the prior written approval of the Association.

6. RESTRICTIONS AGAINST COMPETITION

6.1 During the Term

- (a) During the term of this Agreement, the Member agrees to use the Intellectual property and Trade Marks of the Association for marketing and business identification only, unless otherwise authorised in writing by the Association.
- (b) The Member acknowledges and agrees that the copyright of the Information supplied by the Association to the Member shall at all times remain the sole property of the Association and the Member hereby waives any right or interest in the information.
- (c) The Member AGREES with the Association that the Member shall not without obtaining the prior written consent of the National Association (which consent may be withheld without assigning any reasons therefore), be directly or indirectly engaged, concerned, or interested as a member, shareholder, beneficiary, director, employee, consultant or agent in any firm, company, trust or business engaged in any business which the Association considers is likely to be a competitor or to jeopardise the integrity of the New Zealand Cosmetic Teeth Whitening Association

6.2 After the Term

- (a) The Member agrees to immediately discontinue use the Intellectual property and Trade Marks of the Association for any purpose whatsoever
- (d) The Member shall not without obtaining the prior written consent of the Association (which consent may be withheld without assigning any reason therefore) be directly or indirectly engaged, concerned, or interested as a member, shareholder, beneficiary, director, employee, consultant, or agent in any firm, company, trust, or business engaged in any business which the Association reasonably considers is likely to be a competitor or to jeopardise the integrity of the New Zealand Cosmetic Teeth Whitening Association

6.3 Restraints Reasonable

- (a) The Member acknowledges and agrees with the Association that the restrictions contained in Sub-Clauses (6.1) and (6.2) above are no greater than is reasonably required to protect the Association's rights and interests under this Agreement AND the Association has the right to seek compensation from the Member for any damages caused by any breach of Sub-Clauses (6.1) and (6.2) above

7. MISCELLANEOUS

7.1 Governing Law

- (a) The laws of New Zealand shall govern this Agreement and the Parties agree to submit to the non-exclusive jurisdiction of the Courts of New Zealand.

7.2 Relationship of Parties

The Member acknowledges that it is an independent proprietor, and notwithstanding any provision to the contrary in this Agreement, the Member is not in any way the:-

- (a) Employee;
- (b) Partner;
- (c) Joint Venturer;
- (d) Legal representative; or
- (e) Agent or representative;

of the Association, and the Member shall not describe itself as any of the above. The Member shall not at any time call or represent themselves as anything other than a Certified Member of the New Zealand Cosmetic Teeth Whitening Association (NZCTWA)

7.2 Severability

If any term or provision or any part thereof ("the Offending Provision") contained in this Agreement is declared to be or becomes unenforceable, invalid, or illegal for any reason whatsoever, including (without limitation) a decision by a Court of Law, or any statutory or other laws, by-laws or regulations, or any other requirements having the force of law, then the other terms and provisions of this Agreement shall remain in full force and effect as if this Agreement had been executed without the Offending Provision.

7.3 Representation

- (a) This Agreement constitutes the entire agreement between the Parties and supersedes all prior Agreements in connection with the subject matter hereof. No Executive Member, employee or agent of the Association is authorised to make any representation or warranty not contained in this Agreement unless such representations or statements are annexed to this Agreement and are signed by the Parties;
- (b) The Member, having been given the opportunity to provide to the Association particulars of any statements or representations which he/she considers have been made and which have induced him/her to enter into this Agreement, confirm to the extent that any such statements or representations are not annexed hereto, that he/she has not relied on any such statement or representation.

- (c) The Member agrees that the Association is a membership, training and licences supplier only.
- (d) The Member agrees that any training provided by the Association is provided for guidance and that any training documentation (such as manuals) is provided for reference purposes and although, all training documentation was written by individual teeth whitening professionals from information provided by Dentists, Chemists and Internationally recognised Teeth Whitening experts, it may not represent the opinions of all dental professionals. Some Dentists or others may do things differently, based on factors such as their individual teeth whitening system, vendor system recommendations, personal experiences, geographic location, educational background, their patient's personality, and other factors. Information and statements within all training documentation is not intended to provide any dental diagnosis or dental advice.
- (e) The Member agrees that in relation to the registration of a practitioner, such registration is that of a Registered Teeth Whitening Practitioner solely recognised by the Association

8. INDEMNITY BY MEMBER

The Member covenants and agrees that the Member will resume sole and entire responsibility for and indemnify and save harmless the Association from and against all claims, liabilities, losses, expenses, responsibility and damages by reason of any claim, proceedings, action, liability or injury arising out of the Member's improper conduct of the Members Business

9. CURRENCY AND GST

- (a) Any sums of money referred to herein are New Zealand Dollars
- (b) Any sums of money and/or payments referred to herein are exclusive of Goods and Services Tax

10. INURING RIGHTS

The rights and benefits granted by the Association to the Member hereunder shall inure to the benefit of the Member in all circumstances (including but not limited to the failure of the Association to continue to operate) provided that such rights and benefits cease in the case of valid Termination of this Agreement

11. COSTS

The Parties acknowledge and agree that each Party shall bear all its own legal costs on a solicitor/client basis in respect of this Agreement, and in respect of the conduct of the Business.

12. ACTS OF GOD

Neither Party shall be liable to the other, and neither Party shall be deemed to be in default for any failure or delay to observe or perform any of the terms and conditions applicable to the Party under this Agreement (other than the payment of money) caused or arising out of any act beyond the control of that party including (but not limited to) fire, flood, lightning, storm and tempest, earthquake, strikes, lock-outs or other industrial disputes, acts of war, riots, explosion, government restriction, unavailability of equipment or product, or other causes whether the kind enumerated above or otherwise which are beyond the control of that Party, and where such failure or delay is caused by one

of the events above, then all times provided for in this Agreement shall be extended for a period commensurate with the period of the delay.

13. WAIVER

No waiver on the part of the Association shall in any way prejudice the Association's rights and remedies pursuant to this Agreement.

14. NOTICES

The Parties acknowledge that any notice to be served upon a Party hereto shall be deemed to be adequately served if forwarded by email or facsimile or ordinary post to the address of the respective Parties detailed in Schedule 1 hereto, or by being personally handed to a Party. In the case of notice being sent by ordinary post, delivery shall be deemed to have been effected on the business day immediately following the date of posting. Notices may also be delivered by email or facsimile, in which event they shall be deemed to have been received on the next following working day after the date of delivery.

SCHEDULE ONE

(a) Association/Licensor Name and Contact Details:

New Zealand Cosmetic Teeth Whitening Association
C/- Suite 1, 291 Tamaki Drive
Kohimarama
Ph 09 578 3282
secretary@nzctwa.org.nz
www.nzctwa.org.nz

(b) Member/Licensee Name and Contact Details:

NAME OF MEMBER: *(The name you want on your Membership Certificate)*

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(1) If the member is an INDIVIDUAL:

First name:

Last Name:

Address:

City:

Email:

Landline:

Mobile:

OR

(2) If the Named Member is a COMPANY:

Legal Registered Name of Company:

Trading/Marketing Name of Company:

Name of person responsible:

Address:

City:

Email:

Landline:

Mobile:

DATE of this agreement: (dd/mm/yyyy): -

IN WITNESS WHEREOF

the Parties have executed this Agreement on the date mentioned above.

EXECUTED by the parties:

The Association/Licensors:

New Zealand Cosmetic Teeth Whitening Association

by it's authorised signatory:-

The Licensee/Member:

SIGNED by/for the Licensee/Member:-

WITNESSED in the presence of:-

Witness Name

Address