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1. When Are Heads Of Terms

A Heads of Terms (HOT) is also commonly known as a “Memorandum of Understanding”, or “Term Sheet” - is typically used where the parties to a commercial arrangement have reached a preliminary decision to enter into the full legal and commercial terms and other details of the whole arrangement. In this note, we have, for convenience, grouped all such Heads of Terms, MOU, Letter of Intent and Term Sheets as “HOTs”.

There are many types of HOTs which will vary according to their subject matter, the industry, the intended to be achieved by the document, timescales, and whether or need to do pending signature of the definitive contract and all legal and commercial terms.

The parties to a proposed HOT should prepare their HOT with the intention that, after they follow it up with a much more detailed document. That formal contract, once fully negotiated, drafted and signed, definitively governs the commercial arrangement in question. It supersedes the HOT.

2. The Advantage of Heads Of Terms

The advantage of using a HOT document is that it serves as a useful tool to help focus the parties. It can identify and set out the main terms and issues, and indicate those major issues which need to be resolved in the formal contract to follow it. Once the HOT is signed, the parties go on to provide information to each other, review that information to clarify, negotiate, and resolve all matters before finally entering into a definitive, legally binding, formal contract.

3. The Disadvantage of Heads Of Terms

A disadvantage of an HOT is that it can require a disproportionate amount of time and it can be a distraction from the negotiation of a full and detailed definitive contract. This can result in the parties to proposed

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commercial arrangements and a definitive contract. They may then sign a definitive contract, and may implement their deal. An HOT is only an incomplete and non-binding agreement. It is temporary, and it is extremely inadvisable not to follow up with a definitive contract before implementing any deal. Use of an HOT also creates a certain legal position which can lead to disputes and legal

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4. Legal Status Of Heads

Such HOT documents are often titled “Subject to Contract”, although it is not always clear from the headings because of the legal uncertainty they create. The use of a title such as “Heads of Terms”, “Memorandum of Understanding”, “Letter of Intent”, or “Term Sheet”. It is important to recognize that the use of such a title will not establish the legal status or effect of the document. The legal status and effect will depend instead on all of the content of the document.

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5. Non-Binding, But With

The nature of an HOT, which is not intended to be treated as an incomplete contract, is that, pending signature of a definitive contract, it is not binding on the parties by anything (whether it is a formal contract, say, draft documents, emails, letters etc. written at any time).

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Heads of Terms and Contract
emplates:

A properly drafted HOT
also clearly state that th
binding since they will
detailed negotiation and

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subject of further subsequent

6. Heads of Terms Can In

Pre-Contract Work

Certain types of HOTs v
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the HOT. For example, th
after signature of the H
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HOT, the HOT will state

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govern those activities in place of
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choose to request certain stated
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that if the other party chooses to
aid certain stated sums for it. In
obligation on that party to do that
done, that party becomes legally
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7. Templates

Our Heads of Terms an
templates for use in conr

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