

THIS MEMORANDUM OF UNDERSTANDING is made between the Parties in relation to a proposed distribution of goods and services (the "Distribution of Goods")

the **HEADS OF TERMS** ("HOT") for the Distribution of Goods, and signed the _____ day of _____ 20____

BY:

(1) <<Name of Company>> (<<Company Registration Number>> <<Company Address>> ("Company")

incorporated in England under number _____, whose registered office is at] **OR** [of] <<insert

and

(2) <<Name of Distributor>> (<<Company Registration Number>> <<Company Address>> ("the Distributor")

incorporated in England under number _____, whose registered office is at] **OR** [of] <<insert

1. Definitions

In this HOT, the following expressions shall have the following meanings:

"Distribution of Goods Agreement"

the Distribution of Goods Agreement described in Clause 3 and set out in the Distribution of Goods Agreement of this HOT;

"Detailed Terms"

the detailed terms, conditions, and other provisions set out in the Distribution of Goods Agreement, the definitive version of the Distribution of Goods Agreement, and when they are agreed and set out in the Distribution of Goods Agreement;

"Commercial Terms"

the terms for the Distribution of Goods set out in sub-Clause 4 of this Distribution of Goods Agreement, which the Parties hereby agree to be the definitive version of those terms, if and when they are included amongst the Detailed Terms of the Distribution of Goods Agreement; and

"Party"

the Parties to this HOT;

2. Purpose and Status of the Distribution of Goods Agreement

2.1 Except for Clause 6 of the Distribution of Goods Agreement, this HOT is not intended to be, and shall not be construed as, a legally binding agreement.

Notwithstanding on the Parties), this HOT is not intended to be, and shall not be construed as, a legally binding agreement.

2.2 The Parties have discussed the Commercial Terms in principle, but they have not yet agreed the definitive version of the Commercial Terms. The Parties agree all of the other terms of the Distribution of Goods Agreement.

The Parties agree the Commercial Terms in principle, but they have not yet agreed the definitive version of the Commercial Terms. The Parties agree to fully discuss, negotiate, draft, and agree the definitive version of the Commercial Terms.

2.3 The Parties intend to discuss, negotiate, draft, and agree the definitive version of the Commercial Terms, and that, save as expressly stated in the Distribution of Goods Agreement, this HOT is not intended to be, and shall not be construed as, a legally binding agreement on any matters relating to any supply or distribution of goods or services between them which is legally

Notwithstanding this HOT, they will fully discuss, negotiate, draft, and agree the definitive version of the Commercial Terms, and will sign a full written Distribution of Goods Agreement containing those Detailed Terms of the Distribution of Goods Agreement, only if and when a Distribution of Goods Agreement is signed which expressly states that it is intended to be a legally binding agreement between them on any agreement between them which is legally binding on the Parties.

- binding on them as
- 2.4 The Parties agree a oral or written state warranty, promise, the date of this HO of goods arrangem express term of the
3. **Distribution of Goods Ag**
- The Distribution of Goods agreement between the P goods to the Distributor of Distribution of Goods Agre working arrangements, un relating to such sale and su
4. **Commercial Terms**
- The following Commercial them will form part of the D
- 4.1 The Company is e type of goods which engaged in reselling
- 4.2 The goods to be s here>>] OR [are de [attached] [already
- 4.3 The Company may during the period of wishes to do so it r weeks or months>>
- 4.4 The supply under <<insert agreed da time in months or y Distribution of Good
- 4.5 [The Company's sta to the Distributor, a Agreement.] [The s [without] [with] the of at least <<insert
- 4.6 The basic prices to the Distribution of C [brochure] of the Co
- 4.7 The Company ma following basis: << and/or limitations o raw materials, to co them>>. Company price to the Distribut
- agreed in Clause 6 of this HOT, no (negligent or otherwise), and no ment (whether before, on, or after in relation to the proposed supply t is agreed and included as an reement.
- written signed distribution of goods ny will agree to sell and supply or resale by the Distributor. The f, and the only, terms, conditions, matters governing, forming, and ents between the Parties.
- principle. The definitive version of tribution of Goods Agreement:
- g and] marketing and selling the e Distributor, and the Distributor is
- the Distributor [will be <<describe to this HOT] OR [[in the brochure] r]].
- tions or other aspects of the goods s Agreement [and if the Company at least <<insert period of time in notice].
- ds Agreement will commence on ter that date for <<insert period of earlier termination provided by the
- will apply to all sales of the goods ched to the Distribution of Goods le can be varied by the Company r] on prior notice by the Company
- or for the goods will be [set out in set out in the standard [price list] ere prices will be shown>>].
- asic prices of the goods [on the uency permitted, the criteria for e justified by increase in prices of Distributor's instructions or lack of period of] notice of variation of any eriod >>].

- 4.8 [The Distributor will ... from any of the basic prices.]
- OR**
- [The Distributor will ... type[s] of discount on the basic prices for the goods ... discount, e.g. bulk purchase discount, prompt payment discount, ... and the amount of discount will be ... the basic price. For this purpose ...] [and] [<<list any other elements of discount>>].]
- 4.9 The basic prices [in ...]
- 4.9.1 VAT and ... which the Company will add as appropriate]
- 4.9.2 Company's ... [freight] [insurance] [[any customs duties or tax ... upon importation] [or other duties]] all of which ... OR [the Distributor will bear, and it will either r ... to the Company or will discharge those costs ... reimburses them, the Company will invoice them ...]
- 4.10 Payment for goods ... the following method(s): <<state details>>. [Letters ... required to secure payment by the Distributor].
- 4.11 Invoices will be issued ... will be expressed and paid in the following currency ... [Where currency conversion is required, the dates ... e that will apply will be <<state details>>].
- 4.12 Payment for goods ... Distributor [within <<state how long ... [invoice]] OR [with order].
- 4.13 If there is late payment ... sequence will be that the Company may <<state Comp ...]
- 4.14 The goods which th ... will be finished goods requiring no [processing] [or rep ... the Distributor [except as follows: the Distributor [may or must do>>].
- 4.15 ¹[Restrictions will a ... follows. During the period of the Distribution of Good ...]
- 4.15.1 The Co ... e Distributor the exclusive right to sell the ... territory/ies:<<describe/define here ... tor is appointed>>.
- 4.15.2 [Since ... /ies:<<describe/define here the territory ... is appointed>> will be exclusive to the Dist ... ay not solicit or accept orders for ... y/ies [and may not appoint any ...]

¹ This template assumes that the Territory will be a country or area, in which case the definitions of Territory in this document will apply. If instead as any country(ies) or area(s) not within the UK, it might instead be any part(s) of the UK in which case the definitions of Territory in this document will apply. Before deciding to define the Territory as a part of the UK, seek legal advice as to the implications of doing so.

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ry/ies:<<describe the territory for
nted>> will be exclusive to the
accept orders for the goods in
he orders are unsolicited by the

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[The Co
or] acce

at any other distributor(s) to [solicit
n that/those Territory/ies.]

4.15.4

[The Co
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Distributor any enquiries that the
or the goods for delivery to the
e/define here the territory for which

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[The Co
for the f
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t customers of the Distributor only
cribe/define here the purpose, e.g.

4.15.6

[The D
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he goods [only in the following
here the territory for which the
in any territory/ies] **OR** [only in the
s them to Distributor] **OR** [only in
is located].]

4.15.7

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ept with the prior consent of the
[and] [or] [sell] any of the goods
of Goods Agreement [into any
the following Territory/ies:
territory for which the Distributor is
ibe/define here any such other

4.15.8

The Dis
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supplied

ept with the prior consent of the
s [the same as] [and] [or]
[or] [competing with] the goods
of Goods Agreement].

4.15.9

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ept with the prior consent of the
[and] [or] [sell] any goods [the
y similar to] [and] [or] [competing
nder the Distribution of Goods
territory/ies: <<describe/define here
utor is appointed>>];] **OR** [in the
ers them to Distributor] **OR** [the
located;] **OR** [in any territory].

4.15.10

[The D
restrictio

describe/define here any other

4.16 [The Company] [ar

t not poach any of the staff of the

- other [for a period of <<state minimum for total of goods or for each period here>>] after the end of the Distribution of Goods Agreement]
- 4.17 [The Company must <<state minimum for total of goods or for each period here>>] accept and fulfil all orders for the goods.]
- OR**
- [The Company may in its discretion decline any order in any case that it wishes] [provided that it gives reasons for doing so].]
- 4.18 The Distributor is [to] [orders with the Company] [achieve resale] of [a] [an] [or] [value] of goods [over any period/s]. [The minimum is <<state minimum for total of goods or for each period here>>].
- [The Company may] [on at least <<state number of days/weeks/ notice] [by agreement with the Distributor] vary the [if the Distributor does not accept any increase in the such notice it may terminate the Distribution of Goods] [ing at least <<state number of days/weeks/ notice]
- 4.19 [There will be an increase in signing the Distribution of Goods Agreement: <<state here the amount, quantity or value>>]
- 4.20 [To avoid shipment of quantities, there will be a minimum [amount] [quantity] [value] on [minimum] orders as follows: <<state here the amount, quantity or value>>]
- 4.21 [The Distributor must] [stock levels as follows:<<state here the amount, quantity or value>>].]
- 4.22 [Orders must be given] [that they are then confirmed in writing within <<state length of period>>]
- OR**
- [Orders may be given] [that they are then confirmed in writing within <<state length of period>>]
- 4.23 Orders must state the date of order must be at least <<state length of period>> after the date of order;
- 4.24 If the Distributor wishes to amend an order it must submit an amended order [but the Company must accept any amended order] **OR** [and the Company must accept any amended order] if <<state criteria to be met by the Distributor to accept order>>]. An amended order must be submitted <<state length of period>> after the order it amends and any amended delivery date.
- 4.25 The Distributor will submit a forecast of its future orders. [Each forecast

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ats over the next <<state length of
t least <<state length of period>>

ill [not] be of the essence.

address>> which is the **[[ex-works]**
 s of the Distributor] **[the port/depot**
 ess changes, the **[Company]** **OR**
 cost of delivery.

In order, it will notify the Distributor
from other suppliers [and] [or]
in relation to any shortfall in the

are or delay in delivery [for loss
pound or other limit on liability>>].

compliance with all relevant local
of the] goods [except that the
pliance with the following relevant

responsible for procuring import

any] **OR** [the following] records of
company will be entitled to inspect
Distributor [on at least <<state
eks] prior notice] [subject to the
ails>>].]

to the Distributor <<state when it
ny has received payment for the

utor <<state when it will pass, e.g.

istributor in respect of the quality of
at is warranted>>. [The Distributor
spect of [the quality of the goods]
as follows: <<insert details of what

complaint about defects in the goods, it must be made within <<state time limit>> after the purchase. The company must [replace the goods] or refund the money after notification is given.

for a breach of the quality warranty
is etc>>].

utor against any product liability

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- amples of all types of the goods to
amples and how it must provide

- [the expense of the Distributor]**
 <<describe the training, and state

- to provide [after-sales] [and] [or] other support>> to [the Distributor's] will do so as follows: <<describe all of the costs of doing so will be [] **OR** [shared between the proportions of costs to be met by >].]

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[jointly] [separately] promote the
ry/ies: <<describe/define here the
nted>> . [It] [They] must do so
y requirement on one/both parties
articular period(s) in doing so, and
>> .]

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in any manner [it decides] [they
s in the following Territory/ies:
ch the Distributor is appointed>>.

- of the [Company] [Distributor]
Distributor for the goods as follows:

- pany, any item of advertising or
ly be used by the Distributor with
e Company may refuse in its

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provided by the Distributor requires it meets the following conditions:

- costs and expenses are to be
by solely] [partly by Company and
<<state proportions>>] [up to the
ate period, e.g quarter/year>>].]

- costs and expenses are to be

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- 4.58 [If the Distributor [achieve minimum [place minimum orders] [the Distributor's exclus [the Distributor may by notice terminate [the <<describe/define h [the Distributor's Goods in the following Territory/ies: [the Distributor is appointed>>] [and] [or] [terminate [the Distributor's Agreement].]
- 4.59 [The Company] [the Distributor] will have the following rights to terminate the Distributor's Agreement:
- 4.59.1 [Either party may terminate the other party to terminate of at least <<state number of weeks or months>> without any reason [the Distributor] notice may be given so as to terminate the Distributor's Agreement before a period of <<state number of weeks or months>> has expired].]
- 4.59.2 [The Company] may terminate immediately for non-payment of outstanding [if the Distributor does not make payment within a period of <<state number of weeks or months>> the Distributor is permitted for payment by the Distributor].]
- 4.59.3 [Either party may terminate the other party upon breach of any clause of the Distributor's Goods Agreement if the other party fails to [the Distributor] within <<state number of days, weeks or months>>].]
- 4.59.4 [An immediate termination by [the Company] [the Distributor] [the Distributor] in the event of insolvency of [the Company] [the Distributor].]
- 4.59.5 [An immediate termination by [the Company] [the Distributor] in the event of a change of control of [the Company] [the Distributor].]
- 4.59.6 [<<Insert other grounds for termination of the Agreement>>].]
- 4.60 On termination of the Distributor's Agreement:
- 4.60.1 [The company's disclosure obligations under the Distributor's Agreement will [not] remain effective [for a period of <<state length of period>>].]
- 4.60.2 [The Distributor may not compete with the Company [in the following territory/ies: <<describe/define here the territory for which the Distributor is appointed>>] OR [in the territory where the Distributor is appointed] OR [the territory where the Distributor is appointed] for a period of <<state length of period>>] of Goods Agreement.]
- 4.60.3 [The Distributor must take delivery of any outstanding orders within <<state length of period>>].]
- 4.60.4 [The Company must cancel any orders in the pipeline upon termination of the Distributor's Agreement].]

4.60.5 [The Company shall have the option to] repurchase stocks held by [redacted] termination.]

4.60.6 [The Di [REDACTED] promotion and advertising of the goods.]

4.60.7 [If the [Distributor] has any samples of goods or any advertising material [to be used in any way] [must] dispose of them upon termination of the agreement. [The [Distributor] will be responsible for the [disposal of the samples].]

4.60.8 [The D in <<state length of period>>all invoices on.]

4.60.9 [The Distributor shall not be entitled to any compensation for loss of distribution or termination of the Distribution of Goods Agreement] unless termination arises from a breach of the Distribution of Goods Agreement or from exceptional circumstance>>].

4.61 The Distribution of Goods [not] be assignable by the Company
[only with the prior consent of the Distributor]. The Distribution of Goods
Agreement will [not] be assignable by the Distributor [only with the prior
consent of the Company]. In the event of intention to assign of [at least]
<<state period>> Party proposing to assign the
Distribution of Goods Agreement must obtain the consent/refusal of consent must be
given within <<state period>>

4.62 The Company may [] [] of its obligations] **OR** [subcontract any of its obligation of the Distributor, and Distributor may [not] refuse co OR [only for a good reason], and consent/refusal of d thin <<state period>>].

4.63 Any notices or other communications sent by one party on the other must be by [normal post] [recorded delivery] [e-mail].

4.64 [The [Company] [redacted] is a [parent company] [principal shareholder] guar[anteed] in favour of the [Company] [Distributor].]

5. Ongoing Discussion and

5.1 The Parties will not enter into any agreement, arrangement, understanding, or communication to continue or complete their discussions or negotiations to produce, or sign any Distribution of Goods Agreement.

5.2 Nevertheless, but with the understanding that the Parties intend to do so, the Parties intend in good faith to conduct the Distribution of Goods Agreement as soon as reasonably practicable.

5.3 Either Party may, but is not obligated to, at any time and for any reason, and without liability to the other, terminate their discussions or negotiations, and the Distribution of Goods agreement between them, and this HOT shall thereupon cease.

- 5.4 If a Distribution of Goods Agreement is entered into, it will supersede and replace this HOT b, this HOT shall stand, subject to Clause 5.3.

6. Confidentiality

- 6.1 Each Party ("the Party") shall not disclose or make available to the First Party any confidential information concerning the business, affairs, customers, clients, or other Party which is or might be relevant to a distribution agreement between the Parties ("Confidential Information"). The Parties shall not use or disclose that Confidential Information other than the evaluation, discussion or negotiation of a distribution agreement with the Other Party or the recording of it in a Distribution of Goods Agreement.
- 6.2 Neither Party is legally bound to make available to the Other Party any Confidential Information in connection with their discussions and negotiations re Distribution of Goods Agreement, the Parties anticipate that they will or make available Confidential Information to each other.
- 6.3 Neither Party shall have any liability to the Other Party for any inaccuracies in any Confidential Information that it supplies or makes available to the Other Party.
- 6.4 If at any time either Party provides Confidential Information to the Other Party, the Other Party shall do so promptly and shall destroy any copies it has made of the same.
- 6.5 Each Party acknowledges that damages alone would be an inadequate remedy for breach of Clause 6, and that an injunction, specific performance, or other equitable relief, should be awarded against the defaulting Party in the event of an actual breach by it of this Clause 6, without prejudice to any other remedies that either Party may have available.

7. Law and Jurisdiction

- 7.1 This HOT, and the negotiations between the Parties in connection with a proposed Distribution of Goods Agreement, and all disputes or claims arising out of or in connection with this HOT or the proposed or actual Distribution of Goods Agreement, shall be governed by, and construed in accordance with, the law of Wales.
- 7.2 [Subject to Clause 7.3, any dispute, controversy, proceedings or claim between the Parties arising out of or in connection with the proposed or actual Distribution of Goods Agreement shall be subject to the jurisdiction of the courts of England and Wales.]
- 7.3 [Any dispute, controversy, proceedings or claim between the Parties relating to this HOT or the proposed or actual Distribution of Goods Agreement is to be resolved by [arbitration] [and/or] [arbitration] as follows: <<set out details of alternative dispute resolution and/or arbitration details here>>]

[Schedule – Description of Goods to be supplied: see Clause 4.2]

EITHER

[SIGNED on the above date for and on behalf of the Supplier (Name of Company)>>:

By <<Name and Title of person signing>>:

Authorised Signature]

OR

[SIGNED on the above date by <<Name of person signing>>:

Signature]

AND

EITHER

[SIGNED on the above date for and on behalf of the Distributor (Name of Distributor)>>:

By <<Name and Title of person signing>>:

Authorised Signature]

OR

[SIGNED on the above date by <<Name of person signing>>:

Signature]