

**THIS MEMORANDUM OF UNDERSTANDING** is a proposed sales agency agreement

the **HEADS OF TERMS** ("HOT") for the purpose of the day of

**BY:**

(1) <<Name of Principal>> [a company registered in England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>> ("Principal")

England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>>

and

(2) <<Name of Agent>> [a company registered in England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>> ("the Agent")

England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>>

**1. Definitions**

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

the following meanings:

**"Sales Agency Agreement"**

the agreement described in Clause 3 and sub-Clause 4 of this HOT;

**"Detailed Terms"**

the detailed terms, conditions, and sub-conditions set out in the Sales Agency Agreement and when they are agreed and set out in the definitive version of the Sales Agency Agreement;

**"Commercial Terms"**

the terms for the Sales Agency Agreement set out in sub-Clause 4 of this HOT being agreed in principle. The Parties hereby agree in principle to those terms, if and when they are agreed amongst the Detailed Terms in the Sales Agency Agreement; and

**"Party"**

the Parties to this HOT;

**2. Purpose and Status of this Memorandum of Understanding**

2.1 Except for Clause 6 (which shall be binding on the Parties), this HOT is not intended to be, and shall not be, a legally binding contract between the Parties;

binding on the Parties), this HOT is not intended to be, and shall not be, a legally binding contract between the Parties;

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 shall fully discuss, negotiate, draft, and agree all of the other terms of the Sales Agency Agreement;

The Parties have discussed the Commercial Terms in principle, but they have not yet agreed the definitive version of the Commercial Terms. The Parties shall fully discuss, negotiate, draft, and agree all of the other terms of the Sales Agency Agreement;

2.3 The Parties intend to discuss, negotiate, draft, and agree the Commercial Terms of the Sales Agency Agreement. From the date of this HOT, they will fully discuss, negotiate, draft, and agree the Commercial Terms, and will sign a full written Sales Agency Agreement. The Sales Agency Agreement shall only come into force and effect when the Detailed Terms, and that, save for the Commercial Terms, the Sales Agency Agreement comes into force and effect between them relating to any sales agency arrangements. This Memorandum of Understanding is legally binding on them as a contract; and

From the date of this HOT, they will fully discuss, negotiate, draft, and agree the Commercial Terms, and will sign a full written Sales Agency Agreement. The Sales Agency Agreement shall only come into force and effect when the Detailed Terms, and that, save for the Commercial Terms, the Sales Agency Agreement comes into force and effect between them relating to any sales agency arrangements. This Memorandum of Understanding is legally binding on them as a contract; and

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2.4 The Parties agree a oral or written state warranty, promise, the date of this HO agency arrangement term of the Sales A

agreed in Clause 6 of this HOT, no (negligent or otherwise), and no ment (whether before, on, or after t in relation to the proposed sales agreed and included as an express

3. Sales Agency Agreement

The Sales Agency Agree between the Parties when Principal on the Detailed T and the only terms, cond matters governing, forming the Parties.

signed sales agency agreement t the Agent as a sales agent of Agency Agreement will contain all of ments, understandings and other es agency arrangements between

4. Commercial Terms

The following Commercial them will form part of the D

inciple, and the definitive version of es Agency Agreement:

4.1 The appointment o commence on <<ins

e Sales Agency Agreement will

4.2 The period of the ap that date and will o subject to any earlie

es Agency Agreement will be from iod of time in months or years>> y the Sales Agency Agreement;

4.3 The goods to be s Schedule to this HC

ere>> OR <<are described in the

4.4 The territory to b <<describe/define h

les Agency agreement will be

4.5 [The Territory will b accept orders for th agent(s) or distribut

so that Principal may not solicit or y [and may not appoint any other

OR

[The Territory will n

ent;]

[and Principal may orders are unsolici agent(s) [or distrib Territory. If Principa the Agent;]

ods in the Territory] [but only if the pal may [not] appoint any other cept orders for the goods in the l [not] be liable to pay commission

OR

[but Principal may r orders are unsolici be liable to pay com

goods in the Territory] [unless the pal accepts any order, it will [not]

4.6 [The Agent may s Territory;]

s for the goods anywhere in the

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[The Agent may not promote the sale of the goods in any part[s] of the Territory >>];

ers for the goods in the following parts of the Territory>>];

4.7 [The Agent may <<describe here where the goods may be sold anywhere outside the Territory] OR [in <<define the relevant Territory>>];]

ote the sale of the goods by anywhere outside the Territory] OR Territory>>];]

OR

[The Agent may not otherwise promote the sale of the goods anywhere outside the Territory];

therwise promote the sale of the goods anywhere outside the Territory];

4.8 [The Agent may not accept enquiries/orders from outside the Territory;]

quiries/orders from outside the Territory;]

OR

[The Agent may not accept enquiries/orders from outside the Territory but must inform the Principal of any such enquiries/orders as the Agent receives;]

enquiries/orders from outside the Territory but must inform the Principal of any such enquiries/orders as the Agent receives;]

4.9 [The Agent must refer all enquiries/orders to Principal;]

s to Principal;]

OR

[The Agent [will] may only accept orders for the goods [only with the Principal's consent] <<describe the basis on which orders may be accepted on behalf of and in the name of the Agent on the conditions of sale and on the standard terms and conditions [at all] OR the pre-agreed limitations];]

orders for the goods [only with the Principal's consent] [but only on the following basis: <<describe here the basis on which orders may be accepted on behalf of and in the name of the Agent on the conditions of sale and on the standard terms and conditions [at all] OR the pre-agreed limitations];]

4.10 Principal may [not] terminate the Agency Agreement <<state length of notice period >>] [minimum] notice period >>;

ds during the term of the Sales Agreement <<state length of notice period >>] [minimum] notice period >>;

4.11 Principal may [not] alter the product range] of the goods during the term of the Sales Agreement <<describe here the basis on which the product range may be altered >>. Principal may [not] vary those terms and conditions [at all] OR the pre-agreed limitations];]

product range] of the goods during the term of the Sales Agreement <<describe here the basis on which the product range may be altered >>. Principal may [not] vary those terms and conditions [at all] OR the pre-agreed limitations];]

4.12 The Agent's function is to do and its scope is <<describe here what Agent is to do and its scope is >>;

lows: <<describe here what Agent is to do and its scope is >>;

4.13 [The Agent must not employ any other person [which would be in competition with the Agent] for Principal;]

or distributor] in the Territory [or in any other part of the Territory] or third party in relation to any goods to be promoted by the Agent

OR

[The Agent may not employ any other person <<add any other terms >>];]

distributor] in the Territory [or in any other part of the Territory] or third party/ies in relation to any goods to be promoted by the Agent <<add any other terms >>];]

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[[provided that the Agent must not do with any goods to be sold with any goods to be sold [also] not <<add any conditions>>];]

following conditions/limitations: [the goods which would be in competition for Principal, and] the Agent must <>];]

4.14 [[Principal] [and [the goods in the Territory] [It][They] must do requirement to spend what portion of the

separately] promote the sale of the goods, assisting the Agent to achieve sales. [It/they must do so, state any conditions] over any period in doing so, and <>];]

OR

[Principal] [and] [the goods in the Territory] promote the sale of goods in the Territory, but [it] [they] will be not required to do so;]

manner [it decides] [they decide] goods in the Territory, but [it] [they] will be not required to do so;]

4.15 [All advertising or promotion by the Agent with the Principal's discretion;]

used by the Agent may only be used for the Principal. The Principal may refuse in its reasonable discretion

OR

[No advertising or promotion by the Agent without the Principal's prior consent <<describe the conditions>>]

used by the Agent requires the Principal's prior consent. If the Principal's consent meets the following conditions:

4.16 [Agent's [advertising and expenses] [by Agent solely][by the Agent in the proportion of <>] over each period of <>]

costs and expenses are to be covered [entirely] by Principal and partly by the Agent <>] [up to the following maximum amount per/quarter/year>>];]

[Principal's [advertising and expenses] covered [by Agent solely][by the Agent in the proportion of <>] maximum over each period of <>]

costs and expenses are to be covered [entirely] [partly by Principal and partly by the Agent in the proportion of <>] [up to the following maximum amount, e.g quarter/year>>];]

4.17 [Principal is not required to provide <>] to the Agent;]

to the Agent;]

OR

[Principal will provide <>] as follows: <<describe how it must do so>>];]

as follows: <<describe how it must do so>>];]

4.18 Principal is [not] required to provide <>] to the Agent [<<describe how it must do so>>];]

to the Agent [<<describe how it must do so>>];]

4.19 The Agent is not permitted to do <>] how it may do so>>]

goods [except as follows: <<describe how it may do so>>];]

4.20 [The Agent may not do <>] on behalf of the Principal;]

on behalf of the Principal;]

OR

[The Agent may only do <>] on behalf of the Principal on the following conditions:

of the Principal on the following conditions:

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basis: <<describe b

4.21 [The Agent may not of the Principal;]

OR

[The Agent may off e Principal on the following basis:  
<<describe basis or

4.22 [[The Agent][Princi t checks on potential customers  
comprising <<descr

4.23 [The Agent may off e Principal on the following basis:  
<<describe basis or

4.24 The Agent [must][r own business name in connection  
with its activities un reement;

4.25 In connection with t f the goods, [the Agent must [not]  
use the Principal's Agent [may][may not] [must] [use  
its own trademarks]

4.26 The Agent is [not] ny minimum sales figures. [The  
minimum is <<state ods or for each type of goods>>];

4.27 The Agent's remune

4.27.1 [salary] [ret t>> and will be payable <<state  
when and fre

4.27.2 [commission ge>> This percentage will [not]  
increase [an ng to sales levels achieved [on the  
following ba will do so>>]. Remuneration will  
become du accepted][delivered][paid for by  
customer]] a te when and frequency>>;

4.28 The reporting obl will be as follows: <<describe  
frequency, conten ent will provide its reports  
[monthly][quarterly] pial within <<state number of days  
or weeks>> after the riod;

4.29 [[The Principal][and er-sales and technical service [as  
follows: <<describe

4.30 The [Principal] OR nsible for dealing with customer  
complaints. [The fo e used by the Agent: <<describe  
how it must do so>>

4.31 [If the Agent fails to obligation(s)] [or substantially fails  
to perform any of its s

4.31.1 [the Principa s Agency Agreement;]

4.31.2 [<<describe >>];

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- 4.32 On termination of the Sales Agency Agreement, the Agent shall have the following obligations:
  - 4.32.1 [The confidential information shall remain the property of the Principal and the Agent shall ensure obligations under the Sales Agency Agreement shall remain effective [for a further period of <<state length>>];
  - 4.32.2 [The Agent shall not solicit or induce any customers of the Principal [in the Territory] for a period of <<state length>> after the end of the Sales Agency Agreement;]
  - 4.32.3 [The Agent shall not solicit or induce any customers to the Principal;]
  - 4.32.4 [The Agent shall not sell or dispose of any goods to the Principal] OR [The Agent shall not sell or dispose of any goods until it has had an opportunity to sell or dispose of such goods, and then must return any remaining goods to the Principal;]
  - 4.32.5 [Outstanding commissions shall be payable to Agent [as per the commission schedule in the Sales Agency Agreement] OR [<<describe the terms/basis of payment>>];]
  - 4.32.6 [Where term of the Sales Agency Agreement is not in default, Agent will indemnify the Principal for loss of the agency] OR [Where term of the Sales Agency Agreement is in default, Agent will indemnify the Principal for loss of the agency on the following basis: <<describe the basis of calculation of the compensation>>];]

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- 4.33 The Sales Agency Agreement shall be assignable by the Principal [only with the prior consent of the Agent] OR [the Sales Agency Agreement will [not] be assignable by the Agent without the prior consent of the Principal]. [Prior to the assignment, <<state period>> must be given by the Principal to the Agent in writing [in the Sales Agency Agreement];]

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**5. Ongoing Discussion and Negotiations**

- 5.1 The Parties will not be bound by any discussions or negotiations until a Sales Agency Agreement is signed;
- 5.2 Nevertheless, but without prejudice to the Parties' intention to do so, the Parties intend in good faith to conduct discussions and negotiations as soon as reasonably practicable to reach an agreement on a Sales Agency Agreement as set out in Clause 4.32;
- 5.3 Either Party may, at any time and for any reason, terminate the discussions or negotiations with the other, at any time and for any reason, and, except for the purpose of this clause, the discussions or negotiations shall thereupon cease; and
- 5.4 If a Sales Agency Agreement is entered into, it will supersede and replace this Memorandum of Understanding, and shall stand, subject to Clause 5.3.

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**6. Confidentiality**

- 6.1 Each Party ("the Disclosing Party") shall not disclose or make available to the Other Party that in the course of the negotiations or discussions or making available to the First Party any confidential information concerning the business, affairs, operations or activities of the Other Party which is or might be confidential information.

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between the Parties (“Confidential  
use or disclose that Confidential  
the evaluation, discussion or  
with the Other Party or the recording

6.2 Neither Party is leg  
any Confidential In  
and negotiations re  
anticipate that they  
each other;

make available to the Other Party  
connection with their discussions  
es Agency Agreement, the Parties  
ailable Confidential Information to

6.3 Neither Party shall  
for any inaccuracie  
supplies or makes a

ve any liability to the Other Party  
any Confidential Information that it  
ty;

6.4 If at any time either  
Information provide  
Party shall do so pr  
the same; and

er Party to return any Confidential  
it to the Other Party, the Other  
destroy any copies it has made of

6.5 Each Party acknow  
inadequate remedy  
specific performanc  
defaulting Party in t  
6 without prejudice  
in relation to such th

at damages alone would be an  
Clause 6, and that an injunction,  
ef, should be awarded against the  
r actual breach by it of this Clause  
medies that either Party may have  
ch.

**7. Law and Jurisdiction**

7.1 This HOT, and th  
connection with a  
claims arising out o  
Sales Agency Agre  
with, the laws of En

otiations between the Parties in  
y Agreement, and all disputes or  
his HOT or the proposed or actual  
by, and construed in accordance

7.2 [Subject to Clause  
between the Partie  
Agency Agreement  
Wales.

ntroversy, proceedings or claim  
or the proposed or actual Sales  
fiction of the courts of England and

7.3 [Any dispute, contr  
to this HOT or the p  
with by means of  
follows: <<set out  
resolution and/or ar

claim between the Parties relating  
Agency Agreement is to be dealt  
solution] [and/or] [arbitration] as  
g details of alternative dispute

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[Schedule – see Clause 4.3]

**EITHER**

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

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 (Name of Agent)>>]:

By <<Name and Title of person signing>>

\_\_\_\_\_  
Authorised Signature

**OR**

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

\_\_\_\_\_  
Signature

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