

THIS MEMORANDUM OF UNDERSTANDING is a proposed supply of goods agreement

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

BY:

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

England under number <<Company Registration Number>> at] OR [of] <<insert Address>>

and

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

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

1. Definitions

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

the following meanings:

"Supply of Goods Agreement"

the Supply of Goods Agreement described in Clause 3 and sub-Clause 4 of this HOT;

"Detailed Terms"

the detailed terms, conditions, and sub-Clauses set out in the Supply of Goods Agreement and the definitive version of the Detailed Terms and when they are agreed and set out in the Supply of Goods Agreement;

"Commercial Terms"

the Commercial Terms described in sub-Clause 4 of this HOT being agreed in principle by the Parties hereby agree in principle to those terms, if and when they are agreed amongst the Detailed Terms in the Supply of Goods 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 not be intended to be, and shall not constitute, a contract between the Parties), this HOT is not intended to be, and shall not constitute, a contract between the Parties;

(which shall not be intended to be, and shall not constitute, a contract between the Parties), this HOT is not intended to be, and shall not constitute, a 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 Detailed Terms. The Parties have agreed to fully discuss, negotiate, draft, and agree all of the other terms set out in the Supply of Goods Agreement.

The Parties have discussed the Commercial Terms in principle, but they have not yet agreed the definitive version of the Detailed Terms. The Parties have agreed to fully discuss, negotiate, draft, and agree all of the other terms set out in the Supply of Goods Agreement.

2.3 The Parties intend to fully discuss, negotiate, draft, and agree all of the other terms set out in the Supply of Goods Agreement. From the date of this Memorandum of Understanding, for Clause 5 of this Memorandum of Understanding to come into existence, the Parties must agree any supply of goods agreement between them as a contract;

From the date of this HOT, they will fully discuss, negotiate, draft, and agree all of the other terms set out in the Supply of Goods Agreement. From the date of this Memorandum of Understanding, for Clause 5 of this Memorandum of Understanding to come into existence, the Parties must agree any supply of goods agreement between them relating to the supply of goods between them which is legally binding on them.

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2.4 The Parties agree a oral or written state warranty, promise, the date of this HO of goods arrangem express term of the

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 ment.

3. Supply of Goods Agreement

The Supply of Goods Agreement between the Pa agreement between the Pa Customer on the Detailed T will contain all of and understandings and other goods arrangements between

written signed supply of goods will agree to supply products to the and the Supply of Goods Agreement conditions, working arrangements, ng, and relating to such supply of

4. Commercial Terms

The following Commercial them will form part of the D

principle. The definitive version of ply of Goods Agreement:

4.1 The Supplier is e Customer is engage

s of <<describe here>> and the describe here>>;

4.2 The goods to be s Schedule to this HC Customer]];

here>>] OR [are described] [in a [attached]] [already supplied to the

4.3 The supply under th agreed date>> and or years>> subject Agreement;

ement will commence on <<insert <<insert period of time in months provided by the Supply of Goods

4.4 [The Supplier has s the goods to the C Agreement.] [The C consent of the Cust of notice >>];

ale which will apply to all sales of attached to the Supply of Goods by the Supplier [without][with] the Supplier of at least <<insert period

4.5 The basic prices to the Supply of Goods list][brochure] of the

er for the goods will be [set out in [set out in the standard [price where prices will be shown>>];

4.6 The Supplier may following basis: << and/or limitations of raw materials, to co them>>. Supplier m to the Customer of <>

basic prices of the goods [on the uency permitted, the criteria for e justified by increase in prices of Customer's instructions or lack of ice period of variation of any price >>];

4.7 [The Customer will

s from any of the basic prices;]

OR

[The Customer will purchase discount, amount of discount

r the following: <<describe bulk ount or other basis >> and the

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- 4.8 The basic prices [in
 - 4.8.1 VAT and of
 - 4.8.2 Supplier's duties or tax all of which addition to Customer of them];
- 4.9 [Letters of credit will payment by the Customer;]
- 4.10 Invoices will be e the following currency: <<state currency>>;
- 4.11 Where currency co dates and rates of exchange that will apply will be <<
- 4.12 The terms of paym voices will be within <<state how long Customer has voice;
- 4.13 If there is late paym sequence will be that the Supplier may <<state Suppl
- 4.14 [The Supplier will s resale by the Customer] OR [The goods supplied to finished goods and the Customer will apply the follow ore resale: <<describe process/es here>>];
- 4.15 [The following restr the period of the Supply of Goods Agreement:
 - 4.15.1 [The Custod is in [any territory/ies] OR [only in the territory s them to Customer] OR [only in the territory located]] OR [only in the following territory/ies >>];
 - 4.15.2 The Custod t with the prior consent of the Supplier] [same as] [and][or] [substantially similar to]] [n] the goods supplied under the Supply of C
 - 4.15.3 The Custod t with the prior consent of the Supplier] s as] [and][or] [substantially similar to][and][or] oods supplied under the Supply of Goods Ag where Supplier delivers them to Customer] he Customer is located;]
 - 4.15.4 [The Cust describe/define here any other restrictions
- 4.16 [The Supplier][and] poach any of the staff of the other [for a period of << Goods Agreeme after the end of the Supply of Goods Agreement]; period of the Supply of Goods
- 4.17 [The Supplier must to] accept and fulfil all orders for the goods;]

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4.29 [The Customer is responsible for ensuring compliance with all relevant local legislation in connection with the] goods [except that the Supplier is responsible for ensuring compliance with the following relevant legislation: <<insert>>];

4.30 [The Supplier] OR [the Customer] is responsible for procuring import licences and certificates of origin;

4.31 The Supplier will [maintain] OR [the following] records of the goods supplied to the Customer: <<insert>>;

4.32 The title (ownership) in the goods will pass to the Customer <<state when it will pass, e.g. on delivery>>;

4.33 The risk in the goods will pass to the Customer <<state when it will pass, e.g. on delivery>>;

4.34 The Supplier will provide a warranty to the Customer in respect of the quality of the goods as follows: <<state when it is warranted>>;

4.35 Where the Customer claims a defect in the goods, it must notify the Supplier <<state time limit>> after the date of delivery to the Customer. The Supplier must [replace the goods][provide a refund] within <<state time limit>> if no further information is given;

4.36 The Supplier's liability for a breach of the quality warranty is limited to: <<insert details of limit/conditions etc>>;

4.37 [The Supplier will indemnify the Customer] against any product liability claims brought against the Supplier by third parties [limited to: <<insert details of limit/conditions etc>>];

4.38 The Supplier is [not] to provide samples to the Customer [unless: <<describe conditions>>];

4.39 [The Supplier is [not] to provide] [after-sales][and][or][technical] support [and][or] <<insert details of support>> to the Customer [and will do so unless: <<describe conditions>>];

4.40 The Customer [must] use its own business name in connection with its activities under the Agreement;

4.41 [The Customer [must] not use] [the Supplier's trademarks] [and] [the Customer [must] not use] [its own trademarks] [either] [in connection with the goods][and][or] [on the goods];

4.42 [The Customer may] use the Supplier's trademarks for labelling of the goods;

4.43 [Use by the Customer of] [the Supplier's] [other intellectual property of the Supplier] must be agreed in an agreed form that they belong to the Supplier;

4.44 [The Supplier's [trademarks]] [must] [be] [registered];

4.45 [A registered user agreement] [must] [be] [entered into by the parties];

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4.46 [If the Customer becomes aware of actual or threatened infringement of any trade mark or other intellectual property rights of the Supplier, it must [promptly] notify the Supplier. If proceedings in respect of such an infringement are brought by the Supplier, the Customer must provide reasonable cooperation to the Supplier;]

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4.47 [If the Customer fails to perform a sales obligation(s) [or substantially all obligations [the Supplier may terminate the Supply of Goods Agreement.] [<<describe any other consequences>>];]

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4.48 [The Supplier] [and the Supplier] shall have the following rights to terminate the Supply of Goods:

4.48.1 [Either party may terminate the Supply of Goods by notice to the other party of at least <<state number of days>> without any reason [provided that no such notice is given in writing].] [The Supplier may terminate the Supply of Goods Agreement if the other party fails to perform its obligations for a period of at least <<state number of weeks or months>> hereunder.]

4.48.2 [An immediate right to terminate the Supply of Goods shall be reserved to the Supplier for non-payment of sums outstanding.]

4.48.3 [Either party may terminate the Supply of Goods by notice to the other party upon breach of any clause of the Supply of Goods Agreement if the other party fails to remedy the breach within <<state number of days, weeks >> ;]

4.48.4 [An immediate right to terminate the Supply of Goods shall be reserved to [the Supplier] [the Customer] [either party] [the Supplier] [the Customer][other party];]

4.48.5 [An immediate right to terminate the Supply of Goods shall be reserved to [the Supplier] [the Customer] [either party] [the Supplier] [the Customer][other party] control of [the Supplier] [the Customer];]

4.48.6 [other <<describe other rights to terminate the Supply of Goods>>];]

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4.49 On termination of the Supply of Goods Agreement:

4.49.1 [The confidential information obligations under the Supply of Goods Agreement shall remain effective [for a further period of <<state length of period>>] after termination.]

4.49.2 [The Customer shall remain bound by the Supply of Goods Agreement with the Supplier [[in the territory where the Customer is established] OR [the territory where the Supplier is established] for <<state length of period>>] after termination;]

4.49.3 [The Customer shall be obliged to take delivery of any outstanding orders upon termination.]

4.49.4 [The Supplier shall be entitled] to cancel any orders in the pipeline upon termination.]

4.49.5 [The Supplier shall have the option to] repurchase stocks held by the Customer.]

4.49.6 [If the Customer has any stocks or materials of goods or any advertising materials on hand at the time of termination, [the Customer] [must] disposed of them upon termination. [The Supplier] [the Customer] will be responsible for the disposal.]

4.49.7 [The Customer shall be obliged to pay any outstanding unpaid invoices upon termination <<state period>>];]

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4.50 The Supply of Goods shall be assignable by the Supplier [only if the Supply of Goods Agreement is assigned in writing];]

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with the prior consent of the Supplier. [not] be assignable to the Supplier. [Prior notice must be given by the Supplier of the Supply of Goods Agreement and consent must be given within <<state period>>];

The Supply of Goods Agreement will only be assignable to the Supplier with the prior consent of the Supplier. [at least] <<state period>> notice must be given by the Supplier to assign the Supply of Goods Agreement and consent must be given within <<state period>>];

4.51 The Supplier may [subcontract any of its obligations with a third party] OR [subcontract any of its obligations with a third party] OR [only for a good reason], and the Supplier must give notice of such subcontracting within <<state period>>];

The Supplier may [subcontract any of its obligations with a third party] OR [subcontract any of its obligations with a third party] OR [only for a good reason], and the Supplier must give notice of such subcontracting within <<state period>>];

4.52 Any notices or other communications between the Parties must be [by normal post] or [by recorded delivery] [e-mail]

Any notices or other communications between the Parties must be [by normal post] or [by recorded delivery] [e-mail]

4.53 [The [Supplier][Customer] shareholder] guarantees the performance of the Supplier's obligations under the Supply of Goods Agreement for the benefit of The [Supplier][Customer]

[The [Supplier][Customer] shareholder] guarantees the performance of the Supplier's obligations under the Supply of Goods Agreement for the benefit of The [Supplier][Customer]

5. Ongoing Discussion and Negotiation

5.1 The Parties will not terminate the Supply of Goods Agreement unless they have first had a reasonable opportunity to continue or complete their discussions or negotiations to produce, or sign any Supply of Goods Agreement;

The Parties will not terminate the Supply of Goods Agreement unless they have first had a reasonable opportunity to continue or complete their discussions or negotiations to produce, or sign any Supply of Goods Agreement;

5.2 Nevertheless, but without prejudice to the above, in good faith to conduct negotiations to produce, or sign any Supply of Goods Agreement as soon as reasonably practicable;

Nevertheless, but without prejudice to the above, in good faith to conduct negotiations to produce, or sign any Supply of Goods Agreement as soon as reasonably practicable;

5.3 Either Party may, by giving notice to the other, for no reason, and without prejudice to the above, terminate their discussions or negotiations to produce, or sign any Supply of Goods Agreement between them, and, except for the purposes of the Supply of Goods Agreement, the Supply of Goods Agreement shall thereupon cease; and

Either Party may, by giving notice to the other, for no reason, and without prejudice to the above, terminate their discussions or negotiations to produce, or sign any Supply of Goods Agreement between them, and, except for the purposes of the Supply of Goods Agreement, the Supply of Goods Agreement shall thereupon cease; and

5.4 If a Supply of Goods Agreement is entered into, it will supersede and replace any previous Supply of Goods Agreement. The Supply of Goods Agreement shall stand, subject to Clause 5.3.

If a Supply of Goods Agreement is entered into, it will supersede and replace any previous Supply of Goods Agreement. The Supply of Goods Agreement shall stand, subject to Clause 5.3.

6. Confidentiality

6.1 Each Party ("the Disclosing Party") shall not disclose or make available to the Other Party any Confidential Information concerning the business, affairs, operations, or activities of the Disclosing Party which is or might be Confidential Information between the Parties ("Confidential Information"). The Disclosing Party shall not use or disclose that Confidential Information for the purpose of the evaluation, discussion or negotiation of a Supply of Goods Agreement with the Other Party or the recording of it in a Supply of Goods Agreement;

Each Party ("the Disclosing Party") shall not disclose or make available to the Other Party any Confidential Information concerning the business, affairs, operations, or activities of the Disclosing Party which is or might be Confidential Information between the Parties ("Confidential Information"). The Disclosing Party shall not use or disclose that Confidential Information for the purpose of the evaluation, discussion or negotiation of a Supply of Goods Agreement with the Other Party or the recording of it in a Supply of Goods Agreement;

6.2 Neither Party is legally bound to disclose or make available any Confidential Information in connection with their discussions or negotiations relating to the Supply of Goods Agreement, the Supply of Goods Agreement, or make available Confidential Information to each other;

Neither Party is legally bound to disclose or make available any Confidential Information in connection with their discussions or negotiations relating to the Supply of Goods Agreement, the Supply of Goods Agreement, or make available Confidential Information to each other;

6.3 Neither Party shall be liable for any inaccuracies in Confidential Information it supplies or makes available to the Other Party;

Neither Party shall be liable for any inaccuracies in Confidential Information 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 return any Confidential Information to the Other Party, the Other Party shall not use or disclose that Confidential Information for the purpose of the evaluation, discussion or negotiation of a Supply of Goods Agreement with the Other Party or the recording of it in a Supply of Goods Agreement;

If at any time either Party provides Confidential Information to the Other Party, the Other Party shall return any Confidential Information to the Other Party, the Other Party shall not use or disclose that Confidential Information for the purpose of the evaluation, discussion or negotiation of a Supply of Goods Agreement with the Other Party or the recording of it in a Supply of Goods Agreement;

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Party shall do so prior to the destruction of the same; and

destroy any copies it has made of

- 6.5 Each Party acknowledges that an award of damages alone would be an inadequate remedy for the breach of specific performance against the defaulting Party in terms of Clause 6, without prejudice to any remedies that either Party may have in relation to such breach.

at damages alone would be an inadequate remedy for the breach of Clause 6, and that an injunction, specific performance, or other 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 remedies that either Party may have in relation to such breach.

7. Law and Jurisdiction

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- 7.1 This HOT, and the Goods Agreement, and all disputes or claims arising out of or in connection with this HOT or the proposed or actual Supply of Goods Agreement shall be governed by, and construed in accordance with, the law of England and Wales;

negotiations between the Parties in connection with the proposed or actual Supply of Goods Agreement, and all disputes or claims arising out of or in connection with this HOT or the proposed or actual Supply of Goods Agreement shall be governed by, and construed in accordance with, the law of England and 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 Supply of Goods Agreement shall be subject to the jurisdiction of the courts of England and Wales.

any dispute, controversy, proceedings or claim between the Parties arising out of or in connection with the proposed or actual Supply 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 Supply of Goods Agreement is to be resolved by [arbitration] [and/or] [arbitration] as follows: <<set out details of alternative dispute resolution and/or arbitration]

any dispute, controversy, proceedings or claim between the Parties relating to this HOT or the proposed or actual Supply of Goods Agreement is to be resolved by [arbitration] [and/or] [arbitration] as follows: <<set out details of alternative dispute resolution and/or arbitration]

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[Schedule – Desc

d: see Clause 4.2]

EITHER

[SIGNED on the above date for an

ame of Supplier>>:

By <<Name and Title of person sig

Authorised Signature]

OR

[SIGNED on the above date by <<

>>

Signature]

AND

EITHER

[SIGNED on the above date for an

ame of Customer>>:

By <<Name and Title of person sig

Authorised Signature]

OR

[SIGNED on the above date by <<

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Signature]

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