

Full name: International distribution agreement.



DATED

DISTRIBUTION AGREEMENT

between

[PARTY 1]

and

[PARTY 2]

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THIS AGREEMENT is dated [DATE]

PARTIES

- (1) [FULL COMPANY NAME], incorporated and registered in [COUNTRY] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Supplier**).
- (2) [FULL COMPANY NAME], incorporated and registered in [COUNTRY] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Distributor**).

BACKGROUND

The Supplier wishes to appoint the Distributor as its [exclusive **OR** sole **OR** non-exclusive] distributor for the promotion and sale of the Products [to the Exclusive Customers] within the Territory ([both **OR** all] as defined below), and the Distributor wishes to promote and sell the Products [to the Exclusive Customers] within the Territory on the terms of this agreement.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

The definitions and rules of interpretation in this clause apply in this agreement [and the Background].

1.1 Definitions:

Business Day: a day (other than a Saturday, Sunday or public holiday in [COUNTRY]) when banks in [CITY] are open for business.

Commencement Date: [DATE].

Control: the ability to direct the affairs of another person, whether by virtue of the ownership of shares, contract or otherwise.

[Exclusive Customers: the group of customers specified in Schedule 2.]

Force Majeure Event: has the meaning given in [INSERT FORCE MAJEURE CLAUSE NUMBER].

Group: in relation to a company, that company, any subsidiary or holding company [from time to time **OR** at the date of this agreement] of that company[, and any subsidiary [from time to time **OR** at the date of this agreement] of a holding company of that company].

[Mandatory Polices: the Supplier's mandatory policies and procedures [listed in Schedule 9], as amended by notification to the Agent from time to time.]

[Minimum Quantity: the quantities of the Products specified in Schedule 5 for each Year, or such other quantities as may be agreed in writing between the parties in relation to each Year.]

Products: the products of the type and specification manufactured and packed under the Trade Marks and listed in Schedule 1 [and any other products developed by the Supplier and which the Supplier may permit the Distributor, by express notice in writing, to distribute [to the Exclusive Customers] in the Territory].

Reserved Customers: means both (i) the customers specified in Schedule 3, which comprise the customer groups in respect of which the Supplier has appointed another exclusive distributor or has reserved to itself; and (ii) any other customer groups in respect of which the Supplier informs the Distributor by written notice that it has appointed or will appoint another exclusive distributor or has reserved to itself.

Reserved Territories: means (i) the [countries OR areas] specified in Schedule 3 which comprise the [countries OR areas] in respect of which the Supplier has appointed another exclusive distributor and the [country OR areas] which the Supplier has reserved to itself; and (ii) any other [countries OR areas] in respect of which the Supplier informs the Distributor by written notice that it has appointed or will appoint another exclusive distributor or has reserved to itself.

Term: the term of this agreement, as determined in accordance with clause 15.

Territory: the [countries OR areas] specified in Schedule 2.

Trade Marks: the trade mark registrations and applications listed in Schedule 4 [and any further trade marks that the Supplier may, by express notice in writing, permit or procure permission for the Distributor to use in the Territory in respect of the Products].

Year: the period of 12 months from the Commencement Date and each consecutive period of 12 months thereafter during the Term.

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- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
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- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) [and that person's personal representatives, successors or permitted assigns].
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
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- 1.8 A reference to any party shall include that party's personal representatives, successors or permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as [amended, extended or re-enacted from time to time **OR** it is in force as at the date of this agreement].
- 1.10 A reference to **writing** or **written** includes fax [and email **OR** but not email].
- 1.11 [References to a document in **agreed form** are to that document in the form agreed by the parties and initialled by or on their behalf for identification.]
- 1.12 [Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates to the English legal term in that jurisdiction.]
- 1.13 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.
- 1.14 References to clauses [and Schedules] are to the clauses [and Schedules] of this agreement[; references to paragraphs are to paragraphs of the relevant Schedule].
- 1.15 Where any statement is qualified by the expression **so far as [PARTY] is aware or to the best of [PARTY]'s knowledge** (or any similar expression), that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.16 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.17 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.18 [A reference to this agreement or to any other agreement or document referred to in this agreement is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.]

2. APPOINTMENT

- 2.1 The Supplier appoints the Distributor as its [exclusive **OR** non-exclusive **OR** sole] distributor to import, market and distribute the Products [to the Exclusive Customers] in the Territory on the terms of this agreement.
- 2.2 [The Distributor shall purchase the Products only from the Supplier, and shall not, for the Term or for the period of five years from the Commencement Date (whichever shall be the shorter) distribute or manufacture any goods which compete with the Products.]
- 2.3 [The Distributor shall refrain from making active sales of the Products [to customers in the Reserved Territories] [and] [to Reserved Customers]. For these purposes, active sales shall be understood to mean actively approaching or soliciting customers, including, but not limited to, the following actions:
- (a) visits;
 - (b) direct mail, including the sending of unsolicited emails;
 - (c) advertising in media, on the internet or other promotions, where such advertising or promotion is specifically targeted at [customers in Reserved Territories **AND/OR** to Reserved Customers];
 - (d) online advertisements addressed to [customers in Reserved Territories **AND/OR** to Reserved Customers] and other efforts to be found specifically by users [in Reserved Territories **AND/OR** belonging to the Reserved Customers], including the use of territory based banners on third party websites and paying a search engine or online advertisement provider to have advertisements or higher search rankings displayed specifically to users [in Reserved Territories **AND/OR** belonging to the Reserved Customers]; and
 - (e) advertising or promotion in any form, or translation of the Distributor's website into a language other than an official language of any country forming part of the Territory, that the Distributor would not reasonably carry out but for the likelihood that it will reach [customers in Reserved Territories **AND/OR** Reserved Customers].]
- 2.4 The Distributor shall not establish, or maintain any branch, sales outlet or distribution depot in Reserved Territories for the sale of the Products.
- 2.5 [The Distributor shall not sell the Products to end users.]
- 2.6 The Distributor shall not:
- (a) represent itself as an agent of the Supplier for any purpose; or
 - (b) pledge the Supplier's credit; or

- (c) give any condition or warranty on the Supplier's behalf; or
- (d) make any representation on the Supplier's behalf;
- (e) commit the Supplier to any contracts; or
- (f) otherwise incur any liability for or on behalf of the Supplier.

2.7 The Distributor shall not, without the Supplier's prior written consent, make any promises or guarantees about the Products beyond those contained in the promotional material supplied by the Supplier.

3. **DISTRIBUTOR'S UNDERTAKINGS**

The Distributor undertakes and agrees with the Supplier that at all times during the Term it will:

- (a) use [its best **OR** all reasonable] endeavours to promote the distribution and sale of the Products [to the Exclusive Customers] in the Territory;
- (b) employ a sufficient number of suitably qualified personnel to ensure the proper fulfilment of the Distributor's obligations under this agreement;
- (c) operate a minimum of [NUMBER] physical sale outlets within the Territory, [and in each year make a minimum [volume **OR** value] of [NUMBER] of sales of the Products through those outlets, excluding online sales, mail order sales and other forms of selling by means which do not involve the conclusion of contracts for sales of the Products in physical sales outlets operated by the Distributor];
- (d) not resell the Products at a price exceeding the maximum resale price from time to time specified by the Supplier in writing;
- (e) submit written reports at regular intervals to the Supplier, showing details of sales, service stock, outstanding customer orders and orders placed by the Distributor with the Supplier that are still outstanding, and any other information relating to the performance of its obligations under this agreement that the Supplier may reasonably require from time to time;
- (f) maintain on its own account an inventory of the Products at levels which are appropriate and adequate for the Distributor to meet all customer delivery requirements for the Products [of the Exclusive Customers] throughout the Territory;
- (g) keep full and proper books of account and records showing clearly all enquiries, quotations, transactions and proceedings relating to the Products;
- (h) allow the Supplier, on reasonable notice, access to its accounts and records relating to the Products for inspection;
- (i) keep all stocks of the Products which it holds in conditions appropriate for their storage, and provide appropriate security for the Products, all at its own cost;

- (j) insure at its own cost with a reputable insurance company all stocks of the Products as are held by it against all risks which would normally be insured against by a prudent businessman to at least their full replacement value and produce to the Supplier on demand full particulars of that insurance and the receipt for the then current premium;
- (k) [provide to customers an after-sale repair and maintenance service in respect of the Products [in accordance with the terms of the service and maintenance manual provided by the Supplier] during the Term and for [six] months after termination, however terminated; and]
- (l) inform the Supplier immediately of any changes in ownership or Control of the Distributor, and of any change in its organisation or method of doing business that might be expected to affect the performance of the Distributor's duties in this agreement; and
- (m) [to use its best endeavours to ensure that the Products are imported into the Territory with a minimum of delay and to attend to and complete in a proper and efficient manner all necessary documents and formalities in connection with such import;]
- (n) to use its best endeavours to develop, advertise, promote and sell the Products [to the Exclusive Customers] in the Territory and to expand the sale of the Products to all potential purchasers by all reasonable and proper means and not to do anything which may hinder or interfere with such sales;
- (o) to pay or ensure payment on the due date to the Supplier of all sums due to the Supplier for sales of the Products;
- (p) to allow the authorised representatives of the Supplier or their duly appointed agents to have access to the premises of the Distributor at all reasonable times for the purpose of inspecting [the Distributor's maintenance and repair facilities and] the aforesaid books and records;
- (q) to send at its own expense to the premises of the Supplier or make available at the Distributor's premises at a time or times convenient to the Supplier [NUMBER] competent employees for instruction by the Supplier in the use, installation, sale, maintenance, repair and application of the Products. If those employees leave the employment of the Distributor, or it appears that any of them will be unavailable to the Distributor for assisting it in performing its duties under this agreement for more than one month then the Distributor shall send or make available to the Supplier at its own expense one or more other competent employees for instruction; and
- (r) [to indemnify the Supplier on demand against each loss, liability and cost which the Supplier may incur arising out of the breach of the Distributor's obligations under this agreement.]

4. SUPPLY OF PRODUCTS

- 4.1 No later than [DATE] and [DATE] in each Year, the Distributor shall notify the Supplier in writing of its forecast of the quantities of each type of Product that it expects to buy from the Supplier for delivery during the ensuing [NUMBER] month period beginning on the first day of the month following the latest date for issue of that forecast.
- 4.2 The Supplier undertakes to [use [its best **OR** all reasonable] endeavours to] meet all orders for the Products forwarded to it by the Distributor in accordance with the Supplier's terms of delivery [to the extent the orders do not exceed the forecast for each type of Product given under clause 4.1]. The Distributor shall buy the Products for its own account for resale under this agreement.
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- 4.3 [In each Year the Distributor shall place orders with the Supplier for the Minimum Quantity for that Year as set out in Schedule 5.]
- 4.4 On giving [NUMBER] months' notice in writing to the Distributor, the Supplier may vary Schedule 1 as it thinks fit to exclude one or more of the Products from this agreement if the production of such Products is permanently discontinued for any reason.
- 4.5 The Supplier may make changes to the specifications of the Products, provided the changes do not adversely affect the quality of the Products. The Supplier shall give notice of any changes to Product specifications to the Distributor as soon as reasonably practicable.

5. SUPPLIER'S UNDERTAKINGS

The Supplier agrees that at all times during the Term it shall:

- (a) [supply the Products only to the Distributor for resale [to the Exclusive Customers] in the Territory and not supply the Products to [customers **OR** Exclusive Customers] in the Territory;

OR

supply the Products only to the Distributor for resale [to the Exclusive Customers] in the Territory. The Supplier reserves the right to supply the Products directly to [customers **OR** Exclusive Customers] in the Territory [but shall not make active sales of the type described in clause 2.3 to such customers];]

- (b) restrict other distributors to which it sells the Products from making active sales of the type described in clause 2.3 to [customers **OR** Exclusive Customers] in the Territory;

- (c) provide any information and support that may reasonably be requested by the Distributor to enable it to discharge its duties under this agreement properly and efficiently;
- (d) approve or reject any promotional information or material submitted by the Distributor within [28 **OR** 14] days of receipt;
- (e) supply any spare parts requested by the Distributor that are required to enable it to fulfil its repair and service obligations under this agreement, subject to availability.
- (f) make reasonable commercial efforts to supply the Products to the Distributor for resale in the Territory in accordance with Distributor's forecast requirements;
- (g) to provide the Distributor with information on the advertising and promotion used by the Supplier and at the cost of the [Distributor]/[Supplier] supply such quantities of promotional and advertising material as the Distributor shall reasonably request from time to time;
- (h) to inform the Distributor within one month of receipt of the Distributor's advertising and promotional programme whether it accepts the programme and the extent, if any, to which it will contribute to the costs of that programme;
- (i) to provide full training for the employees sent by the Distributor in accordance with *clause 3(q)* at a fee of []; and
- (j) to make available to the Distributor such field sales support as the Supplier may deem necessary.

6. PRICES AND PAYMENT

- 6.1 The prices to be paid by the Distributor to the Supplier for the Products are to be the Supplier's list prices as notified to the Distributor by the Supplier from time to time. The prices applicable as at the Commencement Date are set out in Schedule 6.
- 6.2 The Supplier shall give the Distributor [14 **OR** 28] days' notice in writing of any rises in the prices for the Products.
- 6.3 The Distributor shall pay for any and all expenses, costs and charges incurred by it in the performance of its obligations under this agreement, unless the Supplier has expressly agreed in advance in writing to pay such expenses, costs and charges.
- 6.4 The Distributor shall pay the full amount invoiced to it by the Supplier in [CURRENCY] within 30 days of the date of invoice.

- 6.5 Neither party may withhold payment of any amount due to the other because of any set-off, counter-claim, abatement, or other similar deduction.
- 6.6 As between the Supplier and the Distributor, the Distributor is solely responsible for the collection, remittance and payments of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority [in the Territory] in respect of the purchase, sale, importation, lease or other distribution of the Products.

7. TAXES

The Distributor shall be responsible for the collection, remittance and payment of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, sale, lease or other distribution of the Products.

8. ADVERTISING AND PROMOTION

8.1 The Distributor shall:

- (a) be responsible for advertising and promoting the Products in the Territory (but the Distributor shall not use any advertising materials or promotional literature without the Supplier's prior written consent);
- (b) submit an annual advertising and promotion programme to the Supplier for its approval;
- (c) arrange, at its own expense, and spend at least £[AMOUNT] on the implementation of the programme;
- (d) display advertising materials and other signs provided by the Supplier;
- (e) observe all directions and instructions given to it by the Supplier for promotion and advertisement of the Products; and
- (f) not make any written statement as to the quality or manufacture of the Products without the prior written approval of the Supplier.

8.2 The Supplier shall provide the Distributor with information on the advertising and promotion carried out by the Supplier. The Supplier shall supply any available promotional and advertising material that the Distributor reasonably requests at the cost of the [Distributor **OR** Supplier].

8.3 The Supplier shall make reasonable commercial efforts to participate with the Distributor in fairs, exhibitions and similar events in the Territory, but shall be under no obligation to do so unless such participation is agreed by the parties in writing sufficiently in advance of each event to enable proper preparation by the parties.

- 8.4 The Distributor shall ensure that any website that it uses for the sale of the Products complies with the quality standards and criteria that are set out in Schedule 8.

9. COMPLIANCE WITH LAWS AND POLICIES

- 9.1 Each party shall at its own expense comply with all laws and regulations relating to its activities under this agreement, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.

- 9.2 **Mandatory Polices.** The Distributor shall comply with the Mandatory Polices [and [INSERT RELEVANT INDUSTRY CODE IF ANY]], [in each case] as the Principal [or the relevant industry body] may update them from time to time;

- 9.3 **Import licences.** The Distributor shall be responsible for obtaining any necessary import licences or permits necessary for the entry of the Products into the Territory, or their delivery to the Distributor. The Distributor shall be responsible for any customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the importation and delivery of the Products.

- 9.4 **Changes in marketing laws.** The Distributor shall give the Principal as much advance notice as possible of any prospective or actual changes in laws and regulations applicable to the marketing of the products in the Territory.

9.5 Local Regulations relating to Products

- (a) The Distributor warrants to the Supplier that it has informed the Supplier of all laws and regulations affecting the manufacture, sale, packaging and labelling of Products which are in force within the Territory or any part of it (**Local Regulations**) at the date of this agreement.
- (b) The Supplier, in turn, warrants to the Distributor that the Products comply with the Local Regulations in force at the date of this agreement.
- (c) The Distributor shall give the Supplier as much advance notice as reasonably possible of any prospective changes in the Local Regulations.
- (d) On receipt of notification from the Distributor under clause 9.5(c), the Supplier shall [make reasonable commercial efforts to] ensure that the Products comply with any change in the Local Regulations by the date of implementation of that change, or as soon as is [reasonably] possible afterwards.

10. ANTI-BRIBERY COMPLIANCE

- 10.1 The Distributor shall:

- (a) comply with all applicable laws, statutes, regulations[, and codes] relating to anti-bribery and anti-corruption in the Territory [and in [COUNTRY OF INCORPORATION OF SUPPLIER]] including but not limited to [INSERT RELEVANT RULES] (**Relevant Requirements**);
- (b) comply with the Supplier's anti-bribery, anti-corruption and ethics policies (annexed to this agreement as Schedule 9) and [RELEVANT INDUSTRY CODE ON ANTI-BRIBERY]] [annexed to this agreement as *Schedule 10*], in each case as the Supplier [or the relevant industry] body may update them from time to time (**Relevant Policies**).
- (c) have and shall maintain in place throughout the term of this agreement its own policies and procedures to ensure compliance with the Relevant Requirements and the Relevant Policies, and will enforce them where appropriate;
- (d) promptly report to the Supplier any request or demand for any undue or suspicious financial or other advantage of any kind received by the Distributor in connection with the performance of this agreement;
- (e) [[immediately notify the Supplier (in writing) if a public official in the Territory or in [COUNTRY OF INCORPORATION OF SUPPLIER] becomes an officer or employee of the Distributor[or acquires a direct or indirect interest in the Distributor], and the Distributor warrants that it has no such public officials as [direct or indirect owners,] officers or employees at the date of this agreement;]]
- (f) within [INSERT] months of the date of this agreement, and annually thereafter, certify to the Supplier in writing signed by an officer of the Distributor, compliance with this clause 10 by the Distributor and all persons referred to under clause 10.2. The Distributor shall provide such supporting evidence of compliance as the Supplier may reasonably request.

10.2 The Distributor shall ensure that all of its [suppliers,] agents, subcontractors and other members of its Group who perform services or provide goods in connection with this agreement do so only on the basis of a written contract which imposes on and secures from such persons terms equivalent to those imposed on the Distributor in this clause 10 (**Relevant Terms**). The Distributor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Supplier for any breach by such persons of any of the Relevant Terms.

10.3 Breach of this clause 10 shall be deemed a [material breach **OR** breach of a material clause] under clause 15.2(b).

11. **CONDITIONS OF SALE**

The Supplier's conditions of sale in force from time to time shall apply to all sales by the Supplier to the Distributor under this agreement. The conditions of sale that apply

at the Commencement Date are set out in Schedule 7. If there is any inconsistency between those conditions of sale and the terms of this agreement, the latter shall prevail.

12. TRADE MARKS

- 12.1 The Supplier hereby grants to the Distributor the non-exclusive right, in the Territory, to use the Trade Marks in the promotion, advertisement and sale of the Products, subject to, and for the duration of, this agreement. The Distributor acknowledges and agrees that all rights in the Trade Marks shall remain in Supplier, and that Distributor has and will acquire no right in them by virtue of the discharge of its obligations under this agreement, except for the right to use the Trade Marks as expressly provided in this agreement.
- 12.2 The Distributor shall market and sell the Products only under the Trade Marks, and not in association with any other trade mark, brand or trade name, except as permitted in any branding manual issued by the Supplier. The Distributor shall ensure that the appropriate Trade Marks shall appear on all Products, containers and advertisements for the Products, followed by the symbol ®, or the letters [RTM], as appropriate.
- 12.3 All representations of the Trade Marks that the Distributor intends to use shall be submitted to the Supplier for written approval before use.
- 12.4 The Distributor shall comply with all rules for the use of the Trade Marks issued by the Supplier (including those set out in any branding manual issued by the Supplier) and shall not, without the prior written consent of the Supplier, alter or make any addition to the labelling or packaging of the Products displaying the Trade Marks. The Distributor shall not alter, deface or remove any reference to the Trade Marks, any reference to the Supplier or any other name displayed on the Products or their packaging or labelling.
- 12.5 The Supplier makes no representation or warranty as to the validity or enforceability of the Trade Marks nor as to whether they infringe any intellectual property rights of third parties in the Territory.
- 12.6 The Distributor shall not sub-license, transfer or otherwise deal with the rights of use of the Trade Marks granted under this agreement.
- 12.7 The Distributor shall not do, or omit to do, anything in its use of the Trade Marks that could adversely affect their validity or reputation.

- 12.8 The Distributor acknowledges that this agreement does not operate to vest any right, title or interest in the Trade Marks in the Distributor. The Distributor shall immediately on request enter into any further agreements with the Supplier, in a form satisfactory to the Supplier, necessary for the recording, registration or safeguarding of the Supplier's Trade Mark rights for the marketing of the Products under the Trade Marks.
- 12.9 Each party shall promptly give notice in writing to the other if it becomes aware of:
- (a) any infringement or suspected infringement of the Trade Marks or any other intellectual property rights relating to the Products within the Territory; or
 - (b) any claim that any Product or the manufacture, use, sale or other disposal of any Product within the Territory, whether or not under the Trade Marks, infringes the rights of any third party.
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- 12.10 In respect of any matter that falls within clause 12.9(a):
- (a) the Supplier shall in its absolute discretion, decide what action to take in respect of the matter (if any);
 - (b) the Supplier shall conduct and have sole control over any consequent action that it deems necessary; and
 - (c) [the Supplier shall pay all costs in relation to that action and shall be entitled to all damages and other sums that may be paid or awarded as a result of that action.
- OR**
- the costs of that action and any sums that may be paid or awarded as a result of that action shall be shared equally by the parties.]
- 12.11 In respect of any matter that falls within clause 12.9(b):
- (a) the Supplier and the Distributor shall agree:
 - (i) what steps to take to prevent or terminate the infringement; and
 - (ii) the proportions in which they shall share the cost of those steps and any damages and other sums that may be awarded to or against them; and
 - (b) failing agreement between the parties, either party may take any action as it considers necessary or appropriate, at its own expense, to defend the claim and shall be entitled to and responsible for all damages and other sums that may be recovered or awarded against it as a result of that action.
- 12.12 Each party shall, at the request and expense of the other, provide any reasonable assistance to the other (including the use of its name in, or being joined as a party to, proceedings) with any action to be taken by the other party under this clause 12,

provided that that party is given such indemnity as it may reasonably require against any losses, costs and expenses it may incur as a result of or in connection with providing such assistance.

- 12.13 The Supplier alone is responsible for the registration and maintenance of any marks or designs that relate to the Products. Distributor shall not obtain or try to obtain or register for itself anywhere in the world any trade marks or trade names the same as or similar to the Trade Marks.
 - 12.14 Distributor shall not use the Trade Marks as part of the name under which Distributor conducts its business, or any connected business, or under which it sells or services any products (except the Products), or in any other way, except as expressly permitted hereunder.
 - 12.15 Distributor shall not sub-license, assign, transfer, charge, or otherwise encumber the right to use, reference, or designate the Trade Marks to any other party, except as otherwise expressly permitted under this agreement.
 - 12.16 The Distributor shall immediately bring to the notice of the Supplier any improper or wrongful use in the Territory of the Trade Marks and the Distributor shall on being so requested by the Supplier and at the Supplier's cost assist in taking all steps to defend the rights of the Supplier including the institution at the Supplier's cost of any actions which it may deem necessary to commence for the protection of any of its right.
 - 12.17 Upon termination of this agreement for any reason, Distributor will immediately stop using all or any part of the Trade Marks.
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13. PRODUCT LIABILITY AND INSURANCE

- 13.1 Subject to the Distributor fulfilling all the conditions in this clause 13, the Supplier shall indemnify the Distributor against any liability incurred by the Distributor in respect of damage to property, death or personal injury arising from any fault or defect in the materials or workmanship of the Products and any reasonable costs, claims, demands and expenses arising out of or in connection with that liability (**Relevant Claim**), except to the extent the liability arises as a result of the action or omission of the Distributor.
 - 13.2 The Distributor shall, as soon as it becomes aware of a matter which may result in a Relevant Claim:
 - (a) give the Supplier written notice of the details of the matter;
 - (b) give the Supplier access to and allow copies to be taken of any materials, records or documents as the Supplier may require to take action under clause 13.2(c);
-

- (c) allow the Supplier the exclusive conduct of any proceedings and take any action that the Supplier requires to defend or resist the matter, including using professional advisers nominated by the Supplier; and
 - (d) not admit liability or settle the matter without the Supplier's written consent.
- 13.3 During the Term, the Supplier shall maintain product liability insurance with a reputable insurer of no less than £[AMOUNT] for any one occurrence and no less than £[AMOUNT] in total in any one year for any and all liability (however arising) for a claim that the Products are faulty or defective. The Supplier shall provide a copy of the insurance policy [and proof of payment of the current premium] to the Distributor on request.
- 13.4 The Supplier shall renew the insurance for the term of this agreement and within fourteen days of each renewal shall produce to the Distributor the premium receipt for the renewal (or other evidence of the renewal satisfactory to the Distributor).
- 13.5 If the Supplier fails to effect a renewal the Distributor is entitled to effect the insurance and the Supplier shall on demand reimburse to the Distributor an amount equal to the premium for that insurance.
- 13.6 The Distributor undertakes to maintain appropriate, up-to-date and accurate records to enable the immediate recall of any Products or batches of Products from the retail or wholesale markets. These records shall include records of deliveries to customers (including batch numbers, delivery date, name and address of customer, telephone number, fax number and email address).
- 13.7 The Distributor shall, at the Supplier's cost, give any assistance that the Supplier shall reasonably require to recall, as a matter of urgency, Products from the retail or wholesale market.
- 13.8 The Distributor shall:
 - (a) take such action, institute such proceedings and give such information and assistance as the Supplier may reasonably request to:
 - (i) dispute, resist, appeal, compromise, defend, remedy or mitigate the matter; or
 - (ii) enforce against any person (other than the Supplier) the rights of the Distributor in relation to the matter; and
 - (b) in connection with any proceedings related to the matter (other than against the Supplier), use professional advisers nominated by the Supplier and, if the Supplier so requests, allow the Supplier the exclusive conduct of the proceedings,

in each case on the basis that the Supplier shall indemnify the Distributor for all reasonable costs incurred as a result of any request or nomination by the Supplier.

14. LIMITATION OF LIABILITY

14.1 Nothing in this agreement shall limit or exclude the Supplier's liability:

- (a) for any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability;
- (b) under the indemnities set out in clause 3(r), clause 12.12, and clause 13.1.

14.2 Subject to clause 14.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Distributor, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
 - (i) any loss of goodwill, profit, revenue, or anticipated savings; or
 - (ii) any loss that is an indirect or secondary consequence of any act or omission of the Supplier.
 - (b) the Supplier's total liability for damage to property caused by the negligence of its employees in connection with this agreement shall be limited to £[AMOUNT LINKED TO RELEVANT INSURANCE POLICY] for any one event or series of connected events; and
 - (c) the Supplier's total liability to the Distributor in respect of all other loss or damage arising under or in connection with this agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £[AMOUNT] for the entire Term.
-

14.3 [Neither party shall be liable to the other for compensation arising out of or connected with the loss by either party of:

- (a) present or prospective revenue, profits or anticipated sales, whether arising during the term of this agreement or as the result of any decision to terminate or not to renew this Agreement;
- (b) expenditure, investment or commitments made in connection with this agreement;
- (c) goodwill arising from or connected with the establishment, development or maintenance of the business of Distributor.]

14.4 [Distributor expressly agrees that it shall not be entitled to any fee, commission or other payment as a consequence of any entity other than Supplier concluding sales of the Products for ultimate use in the Territory.]

- 14.5 The liability of the Supplier arising out of or in connection with the supply of Products under this agreement shall be subject to the limitations of liability set out in the Supplier's conditions of sale in force from time to time. The conditions of sale that apply at the Commencement Date are set out in *Schedule 7*.

15. COMMENCEMENT, DURATION AND TERMINATION

- 15.1 This agreement shall take effect on the Commencement Date and, subject to clause 15.2, clause 15.4 and clause 18.5, shall continue in force for an initial term of [NUMBER] Years and indefinitely after that until terminated by either party giving at least [six] months' prior written notice to expire on or after the expiry date of the initial term.

- 15.2 Without affecting any other rights or remedies to which it may be entitled, either party may give notice in writing to the other terminating this agreement immediately if:

- (a) the other party fails to pay any [undisputed] amount due under this agreement on the due date for payment and remains in default for more than [14] days;
- (b) the other party commits a material breach of any [material] term of this agreement and (if that breach is remediable) fails to remedy that breach within 30 days of that party being required [in writing] to do so;
- (c) the other party repeatedly breaches any of the terms of this agreement in a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d) an order is made or a resolution is passed for the winding up of the other party, or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or such an administrator is appointed, or a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court or a creditor to appoint a receiver or manager or which entitle a court to make a winding-up order, or the other party takes or suffers any similar or analogous action in consequence of debt, or an arrangement or composition is made by the other party with its creditors or an application to a court for protection from its creditors is made by the other party;
- (e) the other party, being an individual, is the subject of a bankruptcy petition or order, or dies, or, by reason of illness or incapacity (mental or physical), is incapable of managing his own affairs, or becomes a patient under any mental-health legislation;
- (f) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (g) [there is a change of Control of the other party;] or

- (h) the other party purports to assign or otherwise transfer its rights or obligations under this agreement in breach of [INSERT WHERE APPROPRIATE THE RELEVANT REFERENCE IN clause 21.1].

- 15.3 [The parties acknowledge and agree that any breach of clauses [CLAUSE NUMBERS] shall constitute a material breach [of a material term] for the purposes of clause 15.2(b).]
- 15.4 [Subject to clause 15.5, the Supplier may terminate this agreement immediately by notice in writing if the Distributor fails to purchase the applicable Minimum Quantity in any Year.]
- 15.5 [For the purposes of clause 15.4 only, if in any Year the Distributor fails to purchase the Minimum Quantity, it may carry forward any excess purchases over the Minimum Quantity made in the previous Year to make up the difference between the actual quantity purchased and the Minimum Quantity.]
- 15.6 The Supplier may terminate this agreement immediately by notice in writing if the Distributor is in breach of any of its compliance obligations under clause 9 or clause 10.
- 15.7 [The Supplier may terminate this agreement immediately by notice in writing if:
 - (a) the Distributor changes its organisation or methods of business in such a way as in the [reasonable] opinion of the Supplier to be able less effectively to carry out its duties under this agreement;
 - (b) [there is a merger or consolidation of the Distributor with any other person];
or
 - (c) [there is a change of organisation, methods of Control or management of the Distributor].]]

16. CONSEQUENCES OF TERMINATION

- 16.1 [On termination [or expiry] of this agreement, the following clauses shall continue in force: clause [NUMBER] ([NAME OF CLAUSE]), clause [NUMBER] ([NAME OF CLAUSE]) and clause [NUMBER] ([NAME OF CLAUSE]).]

OR

Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination [or expiry] of this agreement shall remain in full force and effect.]

- 16.2 Termination [or expiry] of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination [or expiry], including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination [or expiry].
- 16.3 On termination:
- (a) the Supplier shall have the option to buy from the Distributor any stocks of the Products at [the same price the Distributor paid for them **OR** such price as the Supplier reasonably considers to be their current market value]. To exercise the option, the Supplier must give notice to the Distributor within [NUMBER] days of termination, stating the quantities of Products it wishes to buy. The Distributor shall deliver such Products to the Supplier within [NUMBER] days of receiving the Supplier's notice, and the Supplier shall pay for the Products in full within 30 days of their delivery. The [Supplier **OR** Distributor] shall be responsible for the costs of packaging, insurance and carriage of the Products;
 - (b) if the Supplier chooses not to exercise its option to buy back the Products under clause 16.3(a), or purchases only part of the Distributor's stocks of Products, [the Distributor shall dispose of its remaining stocks of Products as directed by the Supplier **OR** the Distributor may for a period of [NUMBER] months following termination of this agreement, sell and distribute any stocks of the Products that it may have in store or under its control at the time. At the end of this period the Distributor shall promptly return all remaining stocks of the Products to the Supplier at the expense of the Distributor, or dispose of the stocks as the Supplier directs;]
 - (c) if the Supplier chooses to buy back the Products under clause 16.3(a), or when the [NUMBER] month period under clause 16.3(b) expires, the Distributor shall at the Supplier's option promptly destroy or return all samples, technical pamphlets, catalogues, advertising materials, specifications and other materials, documents or papers that relate to the Supplier's business that the Distributor may have in its possession or under its control (other than correspondence between the parties); and
 - (d) the termination of this agreement shall not of itself make the Supplier liable to pay any compensation to the Distributor, including, compensation for loss of profits or goodwill.
- 16.4 Subject to clause 16.3, all other rights and licences of the Distributor under this agreement shall terminate on the termination date.
- 16.5 [The Supplier may cancel any orders for Products placed by the Distributor before termination if delivery would fall due after termination, whether or not they have been accepted by the Supplier. The Supplier shall have no liability to the Distributor in respect of such cancelled orders.]

17. CONFIDENTIALITY

- 17.1 In this clause 17, Confidential Information means all information [of a confidential nature] disclosed (whether in writing, orally or by another means and whether directly or indirectly) by one party (Disclosing Party) to the other party (Receiving Party) whether before or after the date of this agreement including, without limitation, information relating to the products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs of the Disclosing Party or a member of the Disclosing Party's Group.
- 17.2 Each party undertakes that it shall not [at any time **OR** at any time during this agreement and for a period of [five] years after termination of this agreement,] disclose to any person any Confidential Information, except as provided by clause 17.3.
- 17.3 Each party may disclose the other party's confidential information:
- (a) to those of its employees, officers, representatives or advisers who need to know such information for the purpose of carrying out the party's obligations under this agreement (Recipient). Each party shall ensure that each Recipient complies with this clause 17; and
 - (b) as may be required by law, court order or any governmental or regulatory authority.
- 17.4 Before disclosure of Confidential Information to a Recipient, the Receiving Party shall ensure that the Recipient executes a confidentiality agreement in a form approved by [the Disclosing Party]/[each party other than the Receiving Party]. The Receiving Party shall ensure that the Recipient at all times complies with the confidentiality agreement.

OR

The Receiving Party shall ensure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this agreement as if the Recipient was a party to this agreement.

- 17.5 Clause 17.2, clause 17.3 and clause 17.4 do not apply to Confidential Information which:
- (a) is at the date of this agreement or at any time after the date of this agreement comes into the public domain other than through breach of this agreement by the Receiving Party or a Recipient;
 - (b) can be shown by the Receiving Party to the Disclosing Party's [reasonable] satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party; or

- (c) subsequently comes lawfully into the possession of the Receiving Party from another.
 - 17.6 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this agreement.
 - 17.7 Each party shall have in place industry-standard policies, procedures, training programmes and draft confidentiality agreements so as to ensure that its employees are able to identify and label Confidential Information and deal with it in accordance with the obligations imposed under this clause 17. Each party will upon reasonable written notice disclose to the other on a regular basis details of its policies, procedures and standard documents relating to confidentiality.
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18. FORCE MAJEURE

- 18.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:
 - (a) acts of God, flood, storm, drought, earthquake or other natural disaster;
 - (b) epidemic or pandemic;
 - (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - (d) nuclear, chemical or biological contamination or sonic boom;
 - (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition[, or failing to grant a necessary licence or consent];
 - (f) collapse of buildings, breakdown of plant or machinery, fire, explosion or accident; [and]
 - (g) [any labour or trade dispute, difficulty or increased expense in obtaining workers, materials or transport, strikes, industrial action or lockouts [(other than in each case by the party seeking to rely on this clause, or companies in the same Group as that party)];]
 - (h) [non-performance by suppliers or subcontractors [(other than by companies in the same Group as the party seeking to rely on this clause)]; and]
 - (i) interruption or failure of utility service.
- 18.2 Provided it has complied with clause 18.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

- 18.3 [The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.]
- 18.4 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event[but no later than [NUMBER] days from its start], notify the other party [in writing] of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement;
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations; and
 - (c) (c) as soon as reasonably possible]/[immediately]/[within [] days] after the end of the Force Majeure Event, notify the other party that the Force Majeure Event has ended and resume performance of its obligations under this agreement.
- 18.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than [NUMBER] [weeks], the party not affected by the Force Majeure Event may terminate this agreement by giving [NUMBER] [weeks'] written notice to the Affected Party.

19. ENTIRE AGREEMENT

- 19.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

20. VARIATION

Subject to clause 4.4, no amendment or variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

21. ASSIGNMENT AND OTHER DEALINGS

Option 1: Assignment and other dealings prohibited

- 21.1 This agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

OR

Option 2: Assignment and other dealings prohibited with exceptions

- 21.2 [Subject to [clause 21.3 **OR** the further provisions of this clause 21],] neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other party [(such consent not to be unreasonably withheld or delayed)].
-
- 21.3 [Either party may[, after having given prior written notice to the other party,] assign or subcontract any or all of its rights and obligations under this agreement to a member of its Group [for so long as that company remains a member of the assignor's Group]. [The assignor shall procure that such assignee assigns any rights assigned to it in accordance with this clause 21.3 back to the assignor [or another member of the assignor's Group] immediately before it ceases to be a member of the assignor's Group.]]
- 21.4 [Notwithstanding clause [CLAUSE PROHIBITING DISCLOSURE OF INFORMATION], a party assigning any or all of its rights under this agreement may disclose to a proposed assignee any information in its possession that relates to this agreement or its subject matter, the negotiations relating to it and the other party which it is [reasonably] necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this clause 21.4 shall be made until notice of the identity of the proposed assignee has been given to the other party.]
- 21.5 [[NAME OF PARTY] may grant security over, or assign by way of security, any or all of its rights under this agreement for the purposes of, or in connection with, the financing (whether in whole or in part) by [NAME OF PARTY] of [the acquisition contemplated by this agreement **OR** any of its working capital or other requirements]. On the enforcement of any security of a kind referred to in this clause 21.5, [NAME OF PARTY], any administrative receiver of [NAME OF PARTY] or any person having the benefit of such security may assign any or all of the relevant rights to any person, but the continuing party's liability to any assignee in respect of those rights shall not be greater than if no assignment had taken place.]
- 21.6 [Either party may, after having given prior written notice to the other party, assign and transfer all of its rights and obligations under this agreement to any person to which it transfers [all of its business **OR** that part of its business to which this agreement relates], provided that the assignee undertakes in writing to the other party to be bound by the obligations of the assignor under this agreement.]

OR

Option 3: Assignment and other dealings permitted

- 21.7 Either party may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this agreement[, provided that the assignor gives prior written notice to the other party].
- 21.8 [Notwithstanding clause [CLAUSE PROHIBITING DISCLOSURE OF INFORMATION], a party assigning any or all of its rights under this agreement may disclose to a proposed assignee any information in its possession that relates to this agreement or its subject matter, the negotiations relating to it and the other party which it is [reasonably] necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this clause 21.8 shall be made until notice of the identity of the proposed assignee has been given to the other party.]
- 21.9 Either party may subcontract or delegate in any manner any or all of its obligations under this agreement to any third party[, provided that it gives [prior] written notice of such subcontract or delegation to the other party].

22. FREEDOM TO CONTRACT

The parties declare that they each have the right, power and authority and have taken all action necessary to execute and deliver and to exercise their rights and perform their obligations under this agreement.

23. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

24. SEVERANCE

- 24.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

- 24.2 If [one party gives notice to the other of the possibility that] any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

25. NOTICES

- 25.1 Any notice [or other communication] given to a party under or in connection with this contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by fax to its main fax number; or
- (c) sent by email to the most recent email address notified [or used] by the other party].

- 25.2 Any notice [or communication] shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the proper address];
- (b) if sent by pre-paid first-class post or other next working day delivery service, at [9.00 am] on the [second] Business Day after posting [or at the time recorded by the delivery service].
- (c) if sent by fax, at [9.00 am] on the next Business Day after transmission.

- 25.3 [There shall be no deemed receipt of notices [or other communications] sent by email. However, for the avoidance of doubt, emails may be introduced as evidence in connection with any dispute, mediation or court proceedings arising out of this agreement, where they may be used to show that a notice [or other communication] has been received, in which case they shall be given such weight as may be appropriate after an examination of all the evidence, including acknowledgment and/or evidence of receipt.]

- 25.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. [For the purposes of this clause, "writing" shall not include email.]

26. THIRD PARTY RIGHTS

- 26.1 [Except as expressly provided [in clause [NUMBER] **OR** elsewhere in this agreement],] a person who is not a party to this agreement shall not have any rights whether statutory or otherwise to enforce any term of this agreement. [This does not

affect any right or remedy of a third party which exists, or is available, apart from statute.]

- 26.2 [The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.]

27. NO PARTNERSHIP OR AGENCY

- 27.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party [except as expressly provided in clause[s] [NUMBER(S)]]].

- 27.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

28. COUNTERPARTS

- 28.1 This agreement may be executed in any number of counterparts, each of which when executed [and delivered] shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

- 28.2 [Transmission of [an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) **OR** the executed signature page of a counterpart of this agreement] by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.]

- 28.3 [No counterpart shall be effective until each party has executed [and delivered] at least one counterpart.]

29. ANNOUNCEMENTS

No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

30. CONFLICT

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.

31. RIGHTS AND REMEDIES

[Except as expressly provided in this agreement, the **OR** The] rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

32. FURTHER ASSURANCE

[At its own expense, each **OR** Each] party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, [promptly] execute and deliver such documents and perform such acts as may [reasonably] be required for the purpose of giving full effect to this agreement.

33. SET-OFF

Option 1: Set-off permitted

[PARTY 1] may at any time[, without notice to [PARTY 2],] set off any liability of [PARTY 2] to [PARTY 1] against any liability of [PARTY 1] to [PARTY 2], whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, [PARTY 1] may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by [PARTY 1] of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

OR

Option 2: Set-off excluded for one party

All amounts due under this agreement shall be paid by [PARTY 1] to [PARTY 2] in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

OR

Option 3: Set-off excluded for both parties

All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

34. INTEREST

Option 1: Unilateral right to interest

34.1 [If [PARTY 2] fails to make any payment due to [PARTY 1] under this agreement by the due date for payment, then[, without limiting [PARTY 1]'s remedies under [TERMINATION CLAUSE],] [PARTY 2] shall pay interest on the overdue amount at the rate of [NUMBER]% per annum above [FULL NAME OF BANK]'s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. [PARTY 2] shall pay the interest together with the overdue amount.

34.2 [In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from [the due date **OR** [NUMBER] days after the dispute is resolved] until payment.]

OR

Option 2: Mutual right to interest

34.3 If a party fails to make any payment due to [the **OR** any] other party under this agreement by the due date for payment, then[, without limiting the other party's remedies under [TERMINATION CLAUSE],] the defaulting party shall pay interest on the overdue amount at the rate of [NUMBER]% per annum above [FULL NAME OF BANK]'s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount.]

34.4 [In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from [the due date **OR** [NUMBER] days after the dispute is resolved] until payment.]

35. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of [COUNTRY].

36. JURISDICTION

Each party irrevocably agrees that the courts of [COUNTRY] shall have [exclusive **OR** non-exclusive] jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

37. [LANGUAGE]

- 37.1 This agreement is drafted in the [English] language. If this agreement is translated into any other language, the [English] language text shall prevail.
- 37.2 Any notice given under or in connection with this agreement shall be in the [English] language.]]

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1 The Products

[LIST PRODUCTS.]

Schedule 2 Territory [and Exclusive Customers]

[LIST COUNTRIES OR AREAS COMPRISING THE TERRITORY.]

[LIST CATEGORY OF CUSTOMERS ALLOCATED TO THE DISTRIBUTOR.]

Schedule 3 [Reserved Territories and Reserved Customers]

[LIST COUNTRIES OR AREAS FOR WHICH THE SUPPLIER HAS APPOINTED OTHER EXCLUSIVE DISTRIBUTORS, OR WHICH IT RESERVES TO ITSELF.]

[LIST CATEGORY/CATEGORIES OF CUSTOMER FOR WHICH THE SUPPLIER HAS APPOINTED OTHER EXCLUSIVE DISTRIBUTORS, OR WHICH IT HAS RESERVED TO ITSELF.]

Schedule 4 The Trade Marks

Part 1. Trade mark registrations

Registration number	Country	Mark	Registration date	Class	Specification

Part 2. Trade mark applications

Application number	Country	Mark	Registration date	Class	Specification

Schedule 5 [Minimum Quantity]

Year 1:

Year 2:

Year 3:

Schedule 6 Prices

Schedule 7 Supplier's conditions of sale

Schedule 8 Supplier's Quality Standards and Criteria for Internet Sales

[LIST OF STANDARDS AND CONDITIONS FOR THE DISTRIBUTOR'S USE OF THE INTERNET.]

If the Distributor uses a third party website to distribute the Products, that website shall comply with these quality standards and conditions. [In particular, if the Distributor's website is hosted by a third party platform, the Distributor shall ensure that customers do not visit its website through a site carrying the name or logo of the third party platform.]

Schedule 9 Mandatory Policies

- [Modern Slavery and Human Trafficking Policy].
- [Corporate and Social Responsibility Policy].
- [Anti-bribery and Anti-corruption Policy].
- [Ethics Policy].
- [Data and Privacy Policy].

Schedule 10 [RELEVANT INDUSTRY CODE ON ANTI-BRIBERY]

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
SUPPLIER]

.....
Director

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
DISTRIBUTOR]

.....
Director

