**DISTRIBUTORSHIP AGREEMENT**

This **Distributorship** **Agreement** (this “Agreement”) is entered into as of \_\_\_\_\_\_\_\_\_\_\_ [Effective Date] (the ‘’Effective Date’’).

**BETWEEN:** \_\_\_\_\_\_\_\_\_\_\_ [Entity: Choice(“company”, "corporation", "limited liability partnership", "limited partnership", "proprietorship Distributor")], a company, duly incorporated and registered under the Companies Act, 2013, with its principal place of business located at \_\_\_\_\_\_\_\_\_\_\_ [Company Address], (the “Company”), through its \_\_\_\_\_\_\_\_\_\_\_ [Authorised signatory: Name of the Person], (the “Company”).

**AND:** \_\_\_\_\_\_\_\_\_\_\_ [Entity: Choice(“company”, "corporation", "limited liability partnership", "limited partnership", "proprietorship Distributor")], (the "Agency"), a company, duly incorporated and registered under the Companies Act, 2013, with its principal place of business located at \_\_\_\_\_\_\_\_\_\_\_ [Company Address], (the “Company”), through its \_\_\_\_\_\_\_\_\_\_\_ [Authorised signatory: Name of the Person], (the “Distributor”).

**PREAMBLE**

WHEREAS, the Company is into the manufacture of \_\_\_\_\_\_\_\_\_\_\_ [Name of the goods], located at \_\_\_\_\_\_\_\_\_\_\_ [Address of the Registered Office/ Manufacturing Unit];

WHEREAS the Distributor is a trader dealing in \_\_\_\_\_\_\_\_\_\_\_ [Description of goods], located at \_\_\_\_\_\_\_\_\_\_\_ [Place of business];

WHEREAS, the Distributor is desirous of obtaining a Distributorship of The Company’s Goods; and The Company is also interested in giving the Distributorship to the Distributor;

WHEREAS, the Company and the Distributor desire to enter into an agreement whereby the Distributor will get a commission on the total quantity of goods sold through direct efforts of the Distributor.

NOW THEREFORE in consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

In this Agreement, except where the context or subject matter is inconsistent therewith, the following terms shall have the following meanings:

* 1. “Agreement” shall mean this document and the annexed schedules which are incorporated herein together with any future written and executed amendments.
  2. “Documentation” shall mean all documents, regardless of form, relating to the Services.
  3. “Material” shall mean any and all information and materials, relating to a party’s business, given to the other party from time to time for review, data processing, or for any other reason, and all copies thereof regardless of form or storage medium, including, but not limited to, documentation, notes, formulae, components, drawings, data, flow-charts, plans, specifications, techniques, processes, algorithms, inventions, prototypes, protocols, patent portfolio, pre-clinical and clinical studies, contracts, marketing and other financial and business plans, business processes and methods of doing business and includes all confidential and proprietary information which is at any time so designated by either party, either in writing or orally.
  4. “Confidential Information”: this Agreement together with the Schedules attached hereto; any computer software or other technical information, technology, research, design, idea, process, procedure, or improvement, or any portion or phase thereof; information relating to any of the other Party’s current or proposed products, services, methods, businesses or business plans, marketing, pricing, distribution and other business strategies; lists of, or any other information relating to, any of the other Party’s customers, suppliers, Distributors, agents or employees and such Party’s relationship therewith; the Material and Documentation and any financial information relating to any of the foregoing.

1. RELATIONSHIP OF THE PARTIES

The Parties agree that the Parties shall be considered independent partners and not agents or employees of the other Party. Neither party shall have authority to make any statements, representations or commitments of any kind, nor to take any action which shall be binding on the other Party, except as may be expressly provided for herein or authorized in writing.

1. PAYMENT

The Company shall make the payment to the Distributor every \_\_\_\_\_\_\_\_\_\_\_ [Number] months.

1. DUTIES AND OBLIGATIONS OF THE COMPANY
   1. That the company shall allow credit of one month to the Distributor on all invoices. But an interest of 18% per annum shall be charged on all payments received after one month.
   2. That advertisement material shall be supplied by the company to the Distributor in sufficient quantity in order to display the same at sales depot and for distribution in the areas of its operation.
   3. That the company shall bear 60% cost of rent, and staff subject to maximum of 6% of the invoice value of all products of the company sold to the Distributor. This amount shall be credited in running account of the Distributor with the company on quarterly basis.
   4. That on termination of the agreement the accounts shall be settled within a fortnight. The company shall take back all unsold stock and settle the account.
2. DUTIES AND OBLIGATIONS OF THE DISTRIBUTOR
   1. That the distributor shall keep the stock of the company for Rs \_\_\_\_\_\_\_\_\_\_\_ [Amount] at any time. The Distributor shall submit a quarterly return of the product received, product sold and product in hand.
   2. That the Distributor shall make every effort to promote the sales of the company. In case it is felt by the company that the Distributor is not taking proper interest, it may terminate the Distributorship by giving one month’s prior notice.
   3. That Distributor shall not sell any goods of the company on a price higher or lower than what may be fixed by the company from time to time.
   4. That the Distributors is entitled to appoint sub-Distributors, agents, salesmen, clerk, etc. on salary or commission basis, but with the condition that they shall work strictly within the terms and conditions of this agreement.
   5. \_\_\_\_\_\_\_\_\_\_\_ [Additional Clause: Type Information Here]
3. CONFIDENTIALITY.

The Distributor shall not, in any fashion, form, or manner, either directly or indirectly:

* 1. Disclose or communicate to any party any information relating to the Company’s business or the Product including (but not limited to) customer lists, price points, or marketing plans (the “Confidential Information”);
  2. Duplicate any Confidential information;
  3. Use any Confidential Information other than solely for the benefit of the Company; or
  4. Assist a third party in using any Confidential Information in any manner but solely for the benefit of the Company.
  5. All disclosures of Confidential Information by one Party to the other are made solely on a confidential basis and as trade secrets. Accordingly, each Party shall maintain the confidentiality of all Confidential Information during the Initial Term and any Renewal Term and at all times thereafter, irrespective of the manner or method in which it is terminated.

1. MANDATORY OBLIGATIONS OF THE PARTIES.
   1. not disclose any Confidential Information to any person except to its employees or authorized agents who have a "need to know" to enable the Party to fulfil its obligations hereunder, except with the other Party’s specific prior written authorization;
   2. advise each such employee or agent before he or she receives direct or indirect access to such Confidential Information of the obligations of the Party under this Agreement, and ensure that each such person to whom Confidential Information is thus disclosed enters or has entered or is otherwise bound by a written confidentiality agreement which extends the Party’s obligations hereunder to such person;
   3. take strict precautions, at a minimum those as the Party affords its own most secret or highly confidential information, to safeguard and protect from direct or indirect disclosure to any other person all Confidential Information disclosed to it by the other Party, or otherwise received by it; and
2. FEES AND EXPENSES
   1. The Distributor shall not be entitled to reimbursement for any expenses except those that have been previously approved in writing by the Company. The fees and payment for Distributor shall be made according to the terms and conditions mentioned in this agreement.
3. MATERIALS AND/OR SUPPLIES

Unless otherwise expressly specified in this Agreement, the Company shall supply, at the Distributor’s sole expense, all materials, supplies and other resources necessary to perform the Distributorship.

1. REVENUE SHARE.
2. In consideration for the duties performed hereunder, the Distributor shall be entitled to [[Percent: Share of the Distributor in Total Turnover]] of the Net Turnover generated during the agreement period that is a direct result of the Distributor’s efforts.
3. To be considered a “direct result” of the Distributor’s efforts, substantially all of the contact with a customer that leads to a sale must have been made by the Distributor. Although initial contact and contact at the sale point shall be factors to consider, they are not determinative of such sale being a “direct result” of the Distributor’s efforts.
4. LIMITATION OF LIABILITY
   1. In no event and under no circumstances shall either Party be liable for any indirect, incidental, consequential or special damages, including, without limitation, loss of revenue or loss of profits, for any reason whatsoever arising under this Agreement, whether arising out of breach of warranty, breach of condition, breach of contract, tort, civil liability or otherwise.
   2. In all events, Company’s absolute liability under, or in any way related to this Agreement, whether arising out of breach of warranty, breach of condition, breach of contract, tort or otherwise, shall be limited to the rupee value of the fees earned by the Company under this Agreement.
5. REPRESENTATIONS AND WARRANTIES

Each party hereby represents and warrants to that:

* 1. Each party has all required capacity and corporate authorization to enter into this Agreement and be bound by the obligations provided hereunder;
  2. the execution of this Agreement by the Company and the performance of its obligations hereunder will not constitute a violation or breach of any obligation of any agreement between the Company and any third party or a violation of the Company’s legal obligations; and

1. INSURANCE AND INDEMNIFICATION
   1. During the term of this Agreement, the Company shall procure and maintain comprehensive general liability insurance, which shall include blanket broad form contractual liability coverage, with limits of not less than \_\_\_\_\_\_\_\_\_\_\_ [Amount of contractual liability: Number] in words Rupees \_\_\_\_\_\_\_\_\_\_\_ [Amount of contractual liability: Words] per occurrence for bodily injury and property damage, combined single limit.
   2. or umbrella insurance with a limit of not less than \_\_\_\_\_\_\_\_\_\_\_ [Amount of Insurance: Number] in words Rupees \_\_\_\_\_\_\_\_\_\_\_ [Amount of Insurance: Words] annual aggregate.
   3. The Distributor will indemnify, defend and hold harmless the Company and its affiliates, and their employees, directors, officers, agents and contractors, against and from any losses, claims, proceedings or investigations arising out of or in connection with a breach of this Agreement by The Distributor, including, without limitation, attorney fees, amounts paid in settlement of claims, proceedings or investigations, except to the extent that such claim is due to the negligence or wilful misconduct of The Distributor.
2. NOTICE
   1. Any notice provided for or permitted in this Agreement shall be in writing and will be deemed to have been given \_\_\_\_\_\_\_\_\_\_\_ [Minimum number of Days after Mail: Number] days after having been mailed, postage pre-paid, by certified or registered mail or by recognized overnight delivery services, except in the case of a postal or other strike affecting the service used whereupon notice will be deemed to have been given \_\_\_\_\_\_\_\_\_\_\_ [Minimum number of Days for Service of Notice: Number] days after normal service resumes.
   2. Addressing and delivery is to be made as follows:
      1. If to: Company

\_\_\_\_\_\_\_\_\_\_\_ [Company Address]

* + 1. If to : the Distributor

\_\_\_\_\_\_\_\_\_\_\_ [Distributor Address]

1. TERM
   1. This Agreement will come into force as of the \_\_\_\_\_\_\_\_\_\_\_ [Effective Date] and will expire on \_\_\_\_\_\_\_\_\_\_\_ [Expiry Date] (the “Initial Term”) unless extended by the parties in writing or otherwise terminated by the parties in accordance with the terms of this Agreement.
   2. At the end of the Initial Term, this Agreement will be automatically renewed for successive \_\_\_\_\_\_\_\_\_\_\_ [Number: Number of Years] year terms (a “Renewal Term”) unless either Party provides written notice to the other Party of its desire to terminate this Agreement in accordance herewith.
2. TERMINATION
   1. The Company shall have the right to terminate or cancel all or part of the Services contemplated by this Agreement or any request for Services on any specific task at any time by giving the Distributor \_\_\_\_\_\_\_\_\_\_\_ [Number: Number of Days of Notice] days prior written notice of its intent to so terminate or cancel.
   2. If the Distributor terminates this Agreement before the end of the Initial Term, or the Renewal Term, as the case may be, it shall be entitled for the payment of only those services satisfactorily performed and not previously paid, and any justified irrevocably obligated reasonable expenses for non-cancellable commitments, up to the effective date of termination.
   3. In the event that Distributor or any of its employees, agents or sub-contractors violates any of the terms of this Agreement, including the Schedules or Attachments thereto, or if Distributor’s employees or agents fail to perform the Services to the Client’s satisfaction, the Company shall have the right to provide notice to Distributor that it is terminating this Agreement forthwith with no further obligation or liability other than for payment of any Services that have, to that date, been performed by Distributor to the reasonable satisfaction of the Company.
   4. The Company shall incur no liability, under this Agreement or otherwise for Services not satisfactorily performed and may request the immediate replacement of any of Distributor’s personnel.
   5. If the Company finds the Distributor to be uncompetitive according to general industry standards, the Company may give Distributor written notice thereof. If the Distributor has not remedied the deficiency within \_\_\_\_\_\_\_\_\_\_\_ [Number: Number of Days for replying the Notice] days of receipt of the notice, the Company may terminate this Agreement immediately on giving written notice to Distributor.
3. EFFECT OF TERMINATION.

Upon termination of the agreement, the following shall occur:

* 1. The Distributor shall continue to receive the share described herein from any continuing sales as a direct result of the Distributor’s efforts;
  2. The Distributor shall direct all further inquiries regarding the Company back to the Company;
  3. The Distributor shall return or destroy any physical or digital copies of the Company’s proprietary information in its possession including (but not limited to) marketing material, business plans, customer lists, and pricing information.

1. DISPUTE RESOLUTION:
   1. In the event of any dispute, difference or controversy arising between the Company/Owner and the Distributor in the performance, interpretation, implementation or application of this agreement, the parties will first attempt to resolve their differences mutually but failing mutual settlement dispute, difference or controversy arising, either Party may request that such disputes be settled by arbitration in accordance with the Arbitration and Conciliation Act, 1996 (“ the Act of 1996”) and the rules made there under, as amended from time to time.
2. GENERAL PROVISIONS
   1. Entire Agreement & Amendments

This Agreement hereto constitutes the entire agreement and understanding between the parties relating to the subject matter hereof, and supersedes all other agreements, oral or written, made between the parties with respect to such subject matter. Except as provided herein, this Agreement may not be amended or modified in any way except by a written instrument signed by both Parties.

* 1. Assignment

Neither Party shall assign this Agreement or any of its rights or obligations hereunder without prior written consent of the other Party, which consent may be withheld at the other Party’s discretion.

* 1. Applicable law

This Agreement shall be governed by and interpreted in accordance with the laws of the India, without reference to its conflict of law provisions, and the laws of India applicable therein. All disputes arising under this Agreement will be referred to the courts situated in India which will have jurisdiction, and each Party hereto irrevocably submits to the jurisdiction of such courts (In case arbitration is not opted for by the parties to the agreement).

* 1. Non-solicitation

Unless given prior written consent by the parties, which consent may require a payment to the party, each Party agrees that it will not, during the Initial Term, knowingly solicit or hire any employee of the other Party who is directly involved in providing the Services herein.

* 1. Absence of presumption

No presumption shall operate in favour of or against any Party hereto as a result of any responsibility that any Party may have had for drafting this Agreement.

* 1. Severability

If for any reason whatsoever, any term or condition of this Agreement or the application thereof to any Party or circumstance is, to any extent, invalid or unenforceable, all other terms and conditions of this Agreement and/or the application of such terms and conditions to the parties or circumstances shall not be affected thereby and shall be separately valid and enforceable to the fullest extent permitted by law.

* 1. Force Majeure

During force majors i.e. floors, riots, earthquakes, strikes etc., the Company should provide the maximum possible services in the given circumstances. If it should continue beyond fifteen days, services shall be provided on specific mutually agreeable and reasonable terms and conditions, including reasonable demobilization costs. The provisions of this Force Majeure clause shall not operate to excuse any Party from the payment of any fee or other payment when due.

* 1. Waiver

No waiver by either Party of any obligation, restriction or remedy under this Agreement shall be valid unless by specific written instrument. No acceptance by a Party of any payment by another Party and no failure, refusal or neglect of any Party to exercise any right under this Agreement or to insist upon full compliance by the other Party with its obligations hereunder, shall constitute a waiver of any other provision of this Agreement or any further or subsequent non-compliance with the same or any other provision.

* 1. Further Assurances

Each of the parties hereto hereby covenants and agrees to execute and deliver such further and other agreements, assurances, undertakings, acknowledgments or documents, and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

* 1. Binding Nature

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective (as applicable) successors and assigns.

* 1. Counterparts

This Agreement may be signed in counterparts, and by use of facsimile signatures, each of which when signed and delivered shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

* 1. Non-Waiver Clause:

These protect parties who excuse the other party for non-performance of contract terms. For example, suppose one party only makes payments every other month when the contract requires monthly payments. If the non-breaching party accepts the payments but doesn’t file a lawsuit, the non-waiver clause allows them to recover the missing payments. In other words, the party doesn’t “waive” their full contract rights by accepting non-complying action from the other party.

* 1. Severability Clause:

This ensures that the remainder of the contract is enforceable even if one part of the contract is determined to be invalid. Without such a clause, it’s possible for the entire contract to be invalidated by the court if only one provision is found to be invalid. Also called a savings clause.

* 1. Liquidated Damages Clause:

Allows the non-breaching party to recover damages in the event that actual damages are difficult to calculate. However, the amount of liquidated damages needs to be reasonable in light of the circumstances.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at \_\_\_\_\_\_\_\_\_\_\_ [Place of Execution] on the date indicated above.

Party A: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Party B: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WITNESSES

1. Name A: \_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Name A: \_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_