

**DEALERSHIP AGREEMENT**

This Agreement is made at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**BETWEEN**

\_\_\_\_\_, a private limited incorporated under the Companies Act 1956 having its registered office at \_\_\_\_\_, appointed Mr. \_\_\_\_\_ Age \_\_\_\_\_ ( \_\_\_\_\_ years) , Occupation \_\_\_\_\_, residing at \_\_\_\_\_ to enter into an agreement on its behalf. (which shall unless repugnant to the context or meaning thereof includes its legal heirs, Administrators, Representatives, and Successors in interests and assigns) **the Party of the First Part”**

**AND**

\_\_\_\_\_, with its principal office at \_\_\_\_\_ and represented by MR. \_\_\_\_\_, age \_\_\_\_\_ years, Occupation \_\_\_\_\_, residing at \_\_\_\_\_ for this agreement.(which shall unless repugnant to the context or meaning thereof includes its legal heirs, Administrators, Representatives, and Successors in interests and assigns) herein after referred to as **“the Party of the Second Part”**

**WHEREAS** the Party of the First Part is a private limited incorporated under Companies Act, 1956 engaged in the business of \_\_\_\_\_

**AND WHEREAS** the Party of the First Part was on the look-out for a dealer & stockist in the territory described on the attached **Addendum A** (the "Territory") to sell the products manufactured or purchased for resale by it.

**AND WHEREAS** the Party of Second Part is a \_\_\_\_\_ engaged in the business of \_\_\_\_\_

**AND WHEREAS** the Party of the Second Part is desirous of undertaking the business of for selling, forwarding, stocking and distributing the Products in the Territory and providing service to the customers of the Party of First Part.

**AND WHEREAS** the Party of the First Part has accepted the offer of the Party of the Second Part to utilize its services for selling, forwarding, stocking and distributing the Products in the Territory.

**AND WHEREAS** based on the representations, the Parties hereto entered into negotiations and agreed to enter into the Agreement and wish to record, by virtue of this Agreement, the terms and conditions by which that have mutually agreed to bind themselves:

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS UNDER:**

**I APPOINTMENT OF AUTHORIZED DEALER:**

1. The Party of the First Part hereby appoints the Party of Second Part as its sole dealer & stockist in the Territory to sell the products manufactured or purchased for resale by the Party of the First Part.

## II TERM OF THE AGREEMENT

The term of this Agreement shall be One Year from the date of execution of this Agreement and shall be subject for renewal prior to the expiry date, unless this Agreement is earlier terminated in pursuance of provision for termination set forth in this Agreement.

## III PRODUCT

The Products referred to herein the agreement are those that the Party of Second Part is to promote for sale to Clients viz. \_\_\_\_\_ produced in accordance with the Client's specifications and in accordance with the technical and quality standards required by the Client. The party of second part will have the right of first refusal for any new product launches by the corporation in the defined territory.

## IV RESPONSIBILITIES AND LIABILITIES OF THE PARTY OF THE SECOND PART

The Party of the Second Part has accepted the following responsibilities and liabilities. The Party of the First Part may define such additional responsibilities and liabilities on the Party of the Second Part as may be required from time to time.

1. The Party of the Second Part shall promote, sell and offer service after the sale of the Products - namely, \_\_\_\_\_ etc. in trade

- parlance in the Territory and to assist the Party of the First Part in all respect to achieve the sales target as decided from time to time between the parties in the Territory.
2. The party of the Second Part shall forecast and procure the material in accordance with the customer requirements and resell to them as per mutually agreed terms between themselves.
  3. The Party of the Second Part shall be responsible for meeting the customer requirements.
  4. The Party of the Second Part shall meet the Clients frequently to take a feedback on the product, forthcoming orders, any issues etc.
  5. The Party of the Second Part shall visit Clients with the Party of the First Part when the Party of the First Part visits the Territory.
  6. The Party of the Second Part shall provide to the Party of the First Part a monthly update on the Clients visited viz. information on the Client, market, competitor, new business development activities undertaken, and any other.
  7. The Party of the Second Part shall adopt all measures to enhance the sale of the Products to achieve/exceed the targets as may be communicated by the Party of the First Part from time to time.
  8. The Party of the Second Part shall maintain complete and up-to-date accounts of all the Products purchased and sold by the Party of the Second Part to the Clients of the Party of the First Part, and shall maintain/send such records/reports as may be prescribed by the Party of the First Part.

Such records and information shall be open to inspection by the representatives of the Party of the First Part and they will be entitled to take photocopies of the Accounts or any part thereof.

9. The Party of the Second Part shall ensure that all the Statutory Certificates are displayed at the Showroom/Warehouse, as required under any law for the time being in force in India.
10. The Party of the Second Part shall be liable for all losses, damages, mis-delivery or shortages of the Products by reason of any act of omission or commission on its part or its employees, representatives while the Products are in the custody and/or control of the Party of the Second Part.
11. The Party of the Second Part shall not assign or transfer rights under this agreement to any other person.
12. All taxes (Central or State/Local), levies, impositions, octroi and duties, which may be assessed on the Party of the First Part in respect of the sale of the Products or levied on the said sales shall be borne by the the Party of the First Part. The Party of the Second Part shall keep the Party of the First Part indemnified against any taxes, claims, demands, proceedings, costs, charges and expenses in respect of such impositions, taxes, levies & duties.
13. The Party of the Second Part shall be liable for all compliance under any local law, control orders and state government rules and shall take all necessary steps for obtaining registrations, licenses and renewals thereof, maintaining proper registers and also submitting necessary returns to the authorised agencies. In the event of any contravention by the Party of the

Second Part of the provisions thereof, the Party of the Second Part shall remain fully liable and shall also keep the Party of the First Part indemnified against any breach and monetary liability or cost arising thereof.

14. The Party of the Second Part shall give a prior notice of any change proposed in its composition/ownership/management and the Party of the First Part shall have a right to decide continuance of its dealings with the Party of the Second Part. However, any change as such in the composition/ownership/management of the Party of the Second Part shall not in any manner affect its liabilities and obligations towards the Party of the First Part. The Party of the Second Part, after the reconstitution, shall continue to remain fully liable to the Party of the Second Part for all its liabilities and obligations as before the reconstitution.
15. The Party of the Second Part shall immediately inform the Party of the First Part about any changes in its constitution, share-holding, ownership, management, etc. The persons shown as Proprietors/Partners/Directors/Authorized Signatories shall remain legally bound by the terms of this agreement till they are specifically relieved in writing by the Party of the First Part from their obligations. In case any change is brought about in the constitution, ownership or management of the Party of the Second Part without intimation to and consent of the Party of the First Part, the newly inducted Proprietors/Directors/Authorized Signatories shall be bound by the terms of this agreement along with their previous counter parts.

16. The Party of the Second Part shall provide service to the Clients of the Party of the First Part in the Territory and such other places as may be directed by the Party of the First Part from time to time. However, nothing stated herein shall prejudice the right of the Party of the First Part to directly effect supply in the Territory or cause other agencies to effect such supplies in the Territory.

## V DUTIES OF THE PARTY OF THE FIRST PART

1. The Party of the First Part shall provide ample support to the Party of the Second Part by means of Advertising, Technical conferences and product seminars in the Territory.
2. The Party of the First Part may provide their entire range of self manufactured or purchased Products for resale by it for sale to the Party of the Second Part.
3. The Party of the First Part may provide to the Party of the Second Part a Monthly update on any new competitor, new product development activities undertaken, and any other.
4. The Party of the First Part may provide the training to the staff of Party of the Second Part to keep them updated on all products of the Party of the First Part.
5. The Party of the First Part shall furnish the Party of the Second Part, at its expense, a reasonable supply of sales and promotional materials as well as product samples to be used by the Party of the Second Part in connection with the representation hereunder. The Party of the First Part will train

the staff of the Party of the Second Part to handle basic technical queries that the clients may pose. The Party of the First Part will try and send their Technical staff for client meetings fixed by the Dealer after being intimated in advance.

6. The Party of the First Part shall have a right to alter/vary the Retail Price of its products from time to time without prior intimation to the Party of the Second Part. In case of un-executed orders, the prices at the time of execution shall be applicable.

## **VI SALES**

The Party of the Second Part shall not solicit any sales outside the territory, without the written permission of the Party of the First Part. In obtaining sales of the Products, Party of the Second Part shall quote only the current prices and terms set by the Party of the First Part. Party of the Second Part shall forward all orders promptly to the Party of the First Part and each shall be subject to the acceptance the Party of the First Part, this Second Part a copy of invoices covering shipments of its product to any part of the Territory.

## **VII PRICE AND PAYMENTS**

The Party of the Second Part will be offered a price as mutually agreed upon and has to make 100% advance payment against each order placed. 30 days credit under Local / STAND BY LC shall be considered after the first transaction.

## **VIII OTHER REPRESENTATIONS**



The Parties agree that the Party of the Second Part may represent other manufacturers. The Party of the Second Part agrees that the products of such other manufacturers will not be directly competitive with the Products of the Party of the First Part. The Party of the Second Part agrees to notify the Party of the First Part of any new products and/or manufacturers represented.

## IX STORAGE AND DOCUMENTATION

1. The Party of the Second Part will ensure that the Products are stored carefully and arrange to protect/guard the Products against theft, damage, fire, flood, burglary and other hazards and also damage due to handling and storage, water logging, combustible materials, acids and explosives etc. The Party of the First Part shall not be liable to take back the stock of Products, which have been damaged due to the negligence/carelessness of the Party of the Second Part. The Party of the Second Part shall forthwith make payment of such stock to the Party of the First Part without prejudice to damage/deterioration in the value of the stock.
2. The Party of the Second Part shall insure the Products in its custody and control against all risks including but not restricting to risks against riots, strike, hurricane, typhoon, and willful damage.
3. The Party of the Second Part shall issue a format acknowledgement as may be required from time to time by the Transport Contractor/ Agency and also issue Products Inward Advice to the Factory/ Office of the Party

of the First Part in a Performa as may be prescribed by the Party of the First Part. Any discrepancies found in the Products received and the details given on the invoice should immediately be brought to the notice of the Party of the First Part in writing by the Party of the Second Part but in any case not later than two weeks from the date of their receipt by the Party of the Second Part.

4. The Party of the Second Part shall make payments to the Transport Contractor/Advertisement, Hoarding bills etc. and shall remain liable to deduct & deposit the tax at source under the Income Tax Act 1961 and to comply with all other related statutory compliance. The Party of the Second Part shall at the time of seeking reimbursement, produce evidence of complying with the formalities.
5. The Party of the Second Part shall open the packages of the Products, in the presence of the Carrier's Agent within a reasonable period not exceeding 24 hours from the time of arrival of Products at the Party of the Second Part, to assess the condition of the Products. If any damages are caused to the Products the Party of the Second Part shall obtain a written certificate from the authorized representative of Transport Agency/Contractors confirming such damage/deterioration. The Party of the Second Part shall ensure that all kinds of damages and defects are incorporated in such Certificate. In case there is any defect in the Open Delivery/Damage Certificate, the Party of the Second Part shall reimburse The Party of the First Part for any loss sustained by The Party of the First Part from such defects.
6. The Party of the Second Part shall be responsible for the maintenance of the stock of the Products purchased from The Party of the First Part. The

Party of the First Part shall be entitled to depute the authorized representatives to verify the stocks of the Party of the Second Part. The Party of the Second Part shall extend all necessary facilities and cooperation to the representatives of The Party of the First Part taking the inventory of the Products.

7. The Party of the Second Part shall not have any right to unilaterally return the Products, which has been sold by the Party of the First Part. The Party of the First Part shall, however, have a right to repossess the Products in case the payments are due from the Party of the Second Part.

#### **X** **SECURITY DEPOSIT**

The Party of the First Part shall maintain with the Party of the Second Part an interest free security deposit or bank guarantee of Rs \_\_\_\_\_ or any amount intimated by the Party of the Second Part from time to time commensurate with the volume of the business towards fulfillment of the obligations/terms and conditions herein and for prompt payment against the supplies made by the Party of the Second Part. The Party of the Second Part can at its own will adjust/forfeit the security money/ enforce Bank Guarantee on breach of terms and conditions of this Agreement or non-fulfillment of obligations specified elsewhere in the Agreement and/or outstanding dues against goods supplied under this Agreement by the Party of the Second Part, either during currency of Agreement or on/after termination of Agreement.

#### **XI** **TERMINATION**

1. If either party violates any provision for this Agreement, or becomes insolvent or bankrupt, the other party may on \_\_\_\_\_ (no. in words) day's written notice to the defaulting party terminate this Agreement. In addition, either party may terminate this Agreement at any time and for any reason on \_\_\_\_\_ (no. in words) day's prior written notice to the other party.
2. Notwithstanding anything contained to the contrary herein, the Party of the First Part shall be entitled to terminate forthwith this Agreement with immediate effect upon the happening of one or more of the following events.
  - 2.1 If the Party of the Second Part is in the opinion of the Party of the First Part become incapable of performing the obligations of this Agreement and the duties thereunder or its position, at any time be such, which in the sole discretion of The Party of the First Part, render it inexpedient for it to continue to act as the Party of the Second Part.
  - 2.1 If the Party of the Second Part acts in a manner prejudicial to the interest of the Party of the First Part. The Party of the First Part shall be the sole judge in this regard.
  - 2.2 If the Party of the Second Part commits a breach of any of the provisions of this Agreement.
  - 2.3 If there is any changing in the constitution, ownership, control or composition of the Party of the Second Part, unless such change or alteration has been agreed to by The Party of the First Part in writing.

- 2.4 If Party of the Second Part fail to carry out any instructions given to it for proper working of this Agreement within a period of \_\_\_\_\_ (no. in words) days after being required by the Party of the First Part in writing to do so.
- 2.5 If the Party of the Second Part obstructs the Party of the First Part's representatives from carrying their duties.
- 2.6 Should the Party of the Second Part become or file papers for insolvency/bankruptcy or becomes legally incapable to honor this Agreement.
- 2.7 Upon any assignment or attempted assignment by the Party of the Second Part of the rights or obligations under this Agreement.
- 2.8 If any part or all information provided by the Party of the Second Part in application form submitted is found to be wrong/wrongly stated.
- 2.9 Upon termination of this Agreement from any cause, the Party of the Second Part shall promptly return to the Party of the First Part or otherwise dispose of, as the Party of the First Part may instruct, all samples, patterns, instruction books, technical pamphlets, catalogues, advertising material, POP material, signboard and other materials, documents and papers whatsoever sent to the Party of the Second Part and relating to the business of the Party of the First Part, which the Party of the Second Part may have in its possession or under its control. Upon such termination, the Party of the Second Part shall forthwith make the payment of all outstanding dues to the Party of the First Part as per the statement of account forwarded to it by the Party of the First Part failing

which, the Party of the First Part shall be entitled to encash the Bank Guarantee or take such legal action as it may deem fit.

- 2.10 The termination of this agreement shall not discharge, affect or otherwise modify the rights and obligations of the parties established or incurred prior to the termination thereof.

## **XII NON-DISCLOSURE AND NON-SOLICITATION**

1. In the event that this Agreement is terminated for any reason, the Party of the Second Part shall forthwith cease from representing himself as such and refrain from any action, which may in any way adversely affect business prospects of the Party of the First Part. The Party of the First Part shall circulate an official note to its Clients informing them of the same. Also in the event that this agreement is terminated, the Party of the Second Part agrees that it shall not represent products of such other manufacturers who are directly competitive with the Corporation's manufactured products for a period of \_\_\_\_\_ years from the date of termination. In the event of termination of the agreement, the Party of the Second Part, at his expenses should return to Party of the First Part, any samples, brochures, promotional materials, etc. entrusted to him.
2. The Parties undertake to keep confidential during the term of this Agreement and at any time thereafter the manufacturing data, Technical Literature, Pricing, Customer List, Marketing Strategies, Working Methods, Trade Secrets and/or new or existing developments etc. or other technical or proprietary information mutually exchanged only to perform the terms of this Agreement.

3. If the Party of the Second Part breaches any of the terms of the Agreement then in addition to any other rights, remedies and damages available to the Party of the First Part at law or in equity as a result of such breach shall be entitled to receive from the Party of the Second Part, all payments made directly or indirectly with respect to any use or disclosure of the information by the Party of the Second Part.

### **XIII FORCE MAJEURE**

Neither Party hereto shall be liable to the other in the event of its being unable to perform this Agreement by reason of any riot, civil commotion, war, accident, shortened hours of labor, strike, lock out, storm, fire, flood or any other circumstances, whether of the kind herein before mentioned or not, beyond the reasonable control of the Party in default.

### **XIV DISPUTES & JURISDICTION**

1. In the event of any differences or dispute or questions arising between the parties hereto, or between any of them and the successors-in-title of the other or others, arising out of and/or in connection with and/or in relation to and/or in consequence of and/or concerning and/or howsoever touching this Agreement or any of the terms, clauses or things contained in this Agreement, or as to the rights, duties and liabilities of the parties hereto under this Agreement, except in respect of expiry and/or termination of the license and/or this Agreement(hereinafter referred to as "*the dispute*"), whether during the continuance of this Agreement or after , the parties hereto shall make every effort to settle the same amicably and by mutual discussion and negotiation within 30 days of any

- party notifying the other party in writing that the dispute has arisen and specifying the dispute.
2. In the event the dispute between the parties hereto cannot be settled amicably, the dispute shall be referred to Arbitration. Such Arbitration shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any amendments or re-enactments as the case may be in force when the Arbitral Tribunal is fully constituted. The seat of Arbitration shall be at \_\_\_\_\_ (name of place) and the proceedings shall be in English.
  3. Subject to the provisions for Arbitration contained hereinabove, the courts in \_\_\_\_\_ (name of place) shall have sole jurisdiction in all matters relating to this Agreement.
  4. The costs, fees, charges and expenses of the Arbitral Tribunal shall be shared equally between the parties hereto and save as aforesaid, the parties shall bear their own costs.

## **XV MISCELLANEOUS**

1. All notices given hereunder shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, addressed to the party at the respective address set forth below unless such party has notified the other of change of address.

Party of the First Part:



Party of the Second Part:

2. This agreement shall be governed and construed in accordance with the laws of the India without regard to the choice of the law principles thereof.

**IN WITNESS WHEREOF** the parties hereto have set their hands on the day and year mentioned hereinabove first.

Signed, sealed and delivered ]

By the within named \_\_\_\_\_ ]

]

] PARTY OF THE FIRST PART

In the presence of ]

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\_\_\_\_\_ ]

]

]

] WITNESS

Signed, sealed and delivered ]

By the within named \_\_\_\_\_ ]

]

] PARTY OF THE SECOND

PART

In the presence of ]

]

\_\_\_\_\_ ]

] WITNESS

DRAFT