*Please note this is a draft agreement prepared by GSPU for your reference. You may amend it suiting to your requirement. GSPU expressly disclaims any liability arising out of the reliance on this draft.*

**DISTRIBUTION AGREEMENT**

This agreement is made and entered on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 2020 (Effective day) by and between

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Proprietary/partnership firm/company represented by its sole proprietor/duly authorized partner/authorized signatory Mr./Ms.\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its Registered Office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as “Company” (which expression shall unless repugnant to the context or meaning thereof, mean and include its successors, and assigns) of the One Part;

**And**

M/s. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a Proprietary/partnership firm/company represented by its sole proprietor/duly authorized partner/authorized signatory Mr./Ms.\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its registered/branch office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as “the Distributor” (which expression shall unless repugnant to the context or meaning thereof, mean and include its heirs, executors, administrators, legal representatives, successors, and assigns) of the Other Part;

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Company and the Distributor shall hereinafter be jointly referred to as the "Parties” and individually as the "Party”.

**WHEREAS**

1. Company is engaged in the business of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
2. The Distributor is in the business of \_\_\_\_\_\_\_\_\_\_\_\_ with sound financial background
3. Company agrees to appoint the Distributor to purchase a certain product line for distribution and sale in a certain identified territory.

The Distributor is registered with the appropriate Sales Tax Authority at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Local Sales Tax Certificate No\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**1. DISTRIBUTOR**

1.1  That Company hereby appoints the party of the Other Part as the Distributor and the party of the Other Part agrees to act as the Distributor of Company and for the products or class of products of Company as set out in the Appendix I-Product Schedule hereunder (referred to as the Products/Goods) on the terms and conditions stipulated hereunder.

1.2  It is being understood between parties that Company retains the right to add to or remove specified products from the products listed in the said schedule.

**2. BASIS OF THE AGREEMENT**

2.1  The relationship between the parties shall be that of seller and buyer and not that of principle and agent and the transaction is on principle to principle basis not withstanding anything to the contrary that may be contained in this agreement or any correspondence or letters between the parties hereto.

2.2  Accordingly the Distributor shall at no point hold himself out as an agent of Company and Company shall not be responsible for any act omission or commission on the part of the Distributor.

**3. RIGHT TO APPOINT OTHER DISTRIBUTOR**

3.1. Company shall have the right

(i) To appoint other Distributors in respect of all or any of the Products in the town

in which the Distributor is situated and operated as Company may deem expedient and necessary.

(ii) To sell all or any of the Products to any other persons at any time in the said town to whom Company wishes to sell.

**4. ORDER PLACEMENT/ACCEPTANCE**

4.1  The Distributor shall place the order with Company for supply of the products with remittance as provided in clause 8 herein in writing or any mode acceptable mutually by the parties. This mode of Placement of Order shall be exclusively stated in writing for convenience of parties.

4.2  The quantity ordered for each individual line shall be in multiples of standard pack size of such product which is considered reasonable.

4.3  All orders for the Products so placed by the Distributor with Company shall be subject to acceptance by Company. If an order is accepted and/or rejected, Company shall convey the same to the Distributor in writing. Upon Acceptance of the same, Company shall proceed further upon receipt of payment.

4.4  Company may deliver the Products by such mode of transport, at such times, in such convenient lots and quantities, as mutually decided by the parties. The mode of transport shall be stated in writing on the Acceptance Sheet/Quotation Sheet/Purchase Order Sheet. Each lot dispatched against an order shall be deemed to be a separate contract and the failure of dispatch of one lot shall not vitiate or affect the contract as to other lots.

**5. TERMS/CONDITION**

Sales by Company of the Products to the Distributor shall be subject to the conditions of this Agreement and also subject to such other terms as may be specified on Company's official order forms from time to time.

**6. PRICE VALIDATION**

6.1  The sale of products by Company to the Distributor shall be fixed for Rs.\_\_\_\_ per order/lot for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_ years/ shall be quoted as and when order is placed which shall be fixed between the parties between \_\_\_\_\_\_ per lot to \_\_\_\_\_ per lot range for \_\_\_\_ years.

6.2  Each lot dispatched against an order shall be invoiced on the prices mutually agreed between the parties as stated in Clause 6.1. Invoice shall be binding on the Distributor without any previous notice in that regard.

6.3  Once the period in clause 6.1. is completed, the parties shall revalidate the period as per their mutually agreed terms on continuation of the agreement and fix the price range for the period upon mutual consent.

**7. MAXIMUM RETAIL PRICE**

7.1  Parties shall mutually decide Maximum Retail Price (MRP) in respect of the resale or disposal by the Distributor's of the stock of the Products supplied to the Distributor in orders placed by the Distributor.

7.2  The Distributor shall not charge in excess of the MRP suggested by Company but he may at his discretion charge prices lower than the suggested MRP.

**8. PAYMENT**

8.1  The mode of payment acceptable by Company will be either of RTGS/Demand Draft/cheque against supplies made from time to time. The choice of mode of payment shall be final and binding upon the mutual acceptance by the Distributor for the same.

8.2  Such payment against dispatch shall always be of essence to the transaction, which Company may accept to execute in whole or in part on receipt of the written or oral order of supply from the Distributor.

8.3  After placement of order and acceptance of the same, the Distributor shall proceed with the payment and the same shall be received by Company within \_\_\_\_\_\_\_\_\_ days/months from acceptance of the order.

8.4  The signed cheques, until and unless countermanded, shall be deemed to constitute a representation and assurance on the part of the Distributor, to Company that the Distributor has sufficient funds with his banker to cover the amount of the cheque.

8.5 The Distributor shall keep with Company a continuing security deposit of Rs. \_\_\_\_\_\_\_\_\_/-(Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_only) against which the Distributor shall be paid interest @ \_\_\_\_% P.A. Such interest shall be paid to the Distributor once in a year. The security amount is refundable at the time of termination of agreement by either party.

**9. HOLD THE GOODS IN TRUST**

If the Distributor pays the price of the goods by cheque, then the Distributor shall hold the goods or the value thereof in Trust for the benefit of Company until the full amount of the cheque is realized.

**10. LIEN ON GOODS**

Company shall have lien over the goods or the value thereof and /or any other goods/stocks and other materials which are in possession with the Distributor till the receipt of payment by Company.

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**11. UNPAID CHEQUE**

Each sale to the Distributor shall be treated as a cash sale and in case the cheque is not realized within their reasonable period or returned unpaid then the Distributor would replace the said cheque by RTGS /Demand Draft payment only within seven days of intimation from Company to the Distributor; failing which Company shall initiate legal action and also terminate this agreement if deem necessary by Company. In case the cheque issued by the Distributor is dishonoured, the charges for such dishonour shall be payable by the Distributor.

**12. DISPATCH**

12.1  Goods will be dispatched by rail, road, and water, according to the availability and suitability of the mode of transport at Company's discretion. Dispatches by rails will be at railway risk. Dispatches by water where goods are sold at C.I.F. will be insured by Company's including risk of theft, pilferage and non-delivery. In every mode of transport and notwithstanding the rail dispatches being at railway risk and dispatches at C.I.F., shall be insured by Company.

12.2  The risks of any loss or damage to or deterioration of the goods from whatever cause arising, occurring after the time of the dispatch thereof from Company's factory/depot/or C&FA Agents premises, shall be borne by the Distributor. This would include any loss, damage or quality deterioration suffered by the goods due to delay, default or neglect of the Distributor in accepting the goods upon delivery.

12.3  The date of dispatch will always deem to be the dates appearing on the carrier receipt issued to Company.

**13. DELIVERY**

13.1  Delivery under such contracts of sale by Company shall be deemed to be sufficient if Company sends to the Distributor railway receipt/ lorry receipt/ bill of lading/ delivery order or other document entitling the Distributor to obtain delivery of the products.

13.2  The date of delivery shall mean the date of dispatch as appearing on such railway/lorry receipt/ bill of lading / delivery order or such other document if that be the mode of delivery adopted in a particular case, or otherwise the actual date of delivery.

**14. FAILURE TO TAKE DELIVERY**

On the failure of the Distributor to take delivery within a reasonable period and pay for the goods dispatched or delivered by Company upon the terms and conditions of the contract of sale Company shall be entitled to sell or dispose of the goods on the account and risk of the Distributor in all respects either by public auction or by private bargain without notice to the Distributor.

**15. DISTRIBUTOR SERVICE & SUPPORT**

The Distributor shall be primarily responsible for markets/territories covered by his operation in order to provide prompt, equitable and effective distribution services to the customers. Such services may also include his undertaking sales promotion window display, attending to trade complaints and other related activities and services as may be advised by Company from time to time on mutually agreed terms and conditions.

**16. BUSINESS PROMOTION**

In the terms of the present agreement the Distributor reiterates his commitment to work in promoting Company's business, brands, products and goodwill. In furtherance of the same the Distributor agrees to support and assist Company in the brand/product promotion exercises undertaken from time to time, through sales promotion exercises/schemes/ contests/ trade discounts/ and also upon Company instructions to build and/or maintain a prominent display of all brands of Company’s products in his premises and in the markets covered by the Distributor.

**17. OPTIMUM LEVEL STOCKS**

To ensure the availability of quality products at optimum levels in the market the parties agree that Company may from time to time suggest norms for damaged stock disposal, stock controls and stock rotation which norms may be verified through a system of reporting as may be decided between the parties from time to time.

**18. INFORMATION AND RECORDS**

The Distributor will faithfully and correctly, in specified formats, maintain and furnish all such information and data as may be required by Company from time to time in order to track sales, consumer demands/preferences, ascertain overall market positions, sales performance of Company's products and their potential etc. and would further help Company in formulating its overall sales and marketing policies. For the purpose of reconciliation of the purchases and payments made to Company, the Distributor shall render full co-operation to Company and shall make available for inspection records, and books of accounts relating to the purchases and payments made to Company by the DISTRIBUTOR from time to time.

**19. STATUTORY OBLIGATIONS**

The Distributor shall discharge all statutory obligations cast upon him including those under indirect taxation statutes and shall forthwith, upon request, furnish the returns/ proof/ declarations forms in respect thereof to Company, failing which, any consequential liability accruing to Company, Company shall be at liberty to adjust appropriate and/or recover the amounts from the Distributor.

**20. SECRECY / CONFIDENTIALITY**

20.1  The Distributor undertakes that all information, arising out-off and in the course of this agreement, pertaining to the sale of the products, including formal records, summaries and reports as mentioned above, shall be treated as confidential information. The Distributor shall use its best endeavor to ensure that the employees who have authorized access to such information shall keep it confidential and in secrecy.

20.2  The Distributor further undertakes that the Distributor shall take all reasonable precautions to protect the confidential information and neither the Distributor nor his employees who have access to the confidential information shall use, produce, copy, translate, sell, distribute in whole or any part or summation of the confidential information except to the extent necessary for performance of their duties pursuant to this agreement.

20.3  The Distributor or his employees and/or associate claiming under, or through the Distributor shall not copy, reproduce, publish, sell and/or distribute in whole or in any part or summation of such Proprietary/Confidential information without prior written permission of Company.

20.4  The Distributor acknowledges that any breach of such condition would injure Company irreparably and that money damages alone would not sufficiently remedy for such breach. In addition Company shall be entitled to its rights of specific performance and injunctive relief under the terms of this Agreement, which relief would be without prejudice to any other rights and remedies available under the law.

**21. DURATION OF THE AGREEMENT AND RENEWAL**

This Agreement shall be in force unless and until terminated as mentioned in Clause 22 herein below.

**22. TERMINATION**

22.1 This agreement may be terminated by either Party without assigning any reason by giving 30 (thirty) days written notice to the other party. In the event of a breach/violation of the any of the terms, conditions and obligations and/or by Mutual consent.

22.2 Company can terminate this agreement on the happening of any one or more of the following events

1. In case of individual or sole proprietary concern, on the death of the individual or sole Proprietor or any change in the status or ownership or conversion to partnership firm or any other form of trading.
2. In case of Partnership firm, a change in the constitution of the firm by death, dissolution, appointment of a new partner or dispute among partners inter-se or otherwise changes the structure/management of the Distributor business without notice to Company.
3. The Distributor business closes down or wound up.
4. In the event of the Distributor being, in the opinion of Company (whose opinion shall be final), incapable of complying with this Agreement or in the event of the Distributor becoming or being adjudged insolvent or making a composition with his creditors or being a company going into liquidation either voluntary or compulsory or in the event of the financial position of the Distributor at any time during the currency of this Agreement being considered by Company (whose opinion shall be final) to be unsound.
5. In the event of the commission by the Distributor of a fraud on Company in connection with this agreement or upon the Distributor failing to carry out any stipulation contained in this agreement for 7 days after being required in writing to do so by Company.
6. In the event of any lawful authority ordering Company to terminate this agreement.
7. In the event the Distributor committing any violation of application of statutory rules or regulations.
8. In the event of an abandonment of the present agreement which would be reflected by failure for placing order for stocks for ensuring compliance of service requirements under the terms of this agreement for a period of excess of 6 months.
9. In the event of any representation, declaration made by the Distributor to Company being found to be incorrect or in the event of the Distributor failing to make full disclosure of current financial position or status of the business or other pertinent details at the time of appointment or failing to intimate to Company particulars of any change in the status, constitution, management of the Distributor business.

22.3  Expiry or termination howsoever occasioned shall be without prejudice to the rights and obligations already incurred prior to the date of such expiry or termination and the accounts between the parties shall be settled.

22.4  The Distributor shall not be entitled to any compensation or damages from Company for termination howsoever occasioned.

**23. PROTECTION OF INTELLECTUAL PROPERTY**

23.1  The Distributor acknowledges that trade name, trademarks, trade secret, logos, design, copyrights or other intellectual property (IPR) (whether registered or not) used by Company is Company’s sole and exclusive property.

23.2  During the term of this Agreement and thereafter, the Distributor shall not use, by itself or through others, Company’s IPR without prior written consent by Company. Even if the Distributor uses the Company’s IPR with such prior written consent by Company, the Distributor's use of the Company’s IPR will be in accordance with the terms set out by Company separately herefrom and Company’s policies then in effect including, but not limited to, trademark usage and advertising policies, and the Distributor agrees not to alter, erase, deface or overprint any trademark, copyright and other notice on anything provided by Company, not to attach any additional trademarks, logos or trade designations to any Products and not to affix Company’s IPR to any product, without another prior written consent of Company. Without prior written consent by Company, the Distributor shall not (i) use any of Company’s trademarks or trade names, or any combination thereof with any words as domain name, or (ii) register any domain name including Company’s trademarks or trade names, or any combination thereof with any words, as a part or as a whole.

23.3  Upon expiration or termination of this Agreement, the Distributor shall forthwith cease all display, advertising and use of all names, marks, logos and designation permitted by Company and shall not thereafter use, advertise or display any name, mark, logo or designation which is, or any part of which is, similar to, or confusing with, any such designation associated with any Product.

23.4  The Distributor agrees to take reasonable efforts to protect Company’s proprietary rights including Company’s IPR. The Distributor agrees to notify Company of any known or suspected infringement of Company’s IPR that comes to the Distributor's attention.

23.5  The Distributor shall not use adopt/utilize any of Company's logo, trade mark, design, copyright as a part of any trade name or its or any other corporate name on any other product or literature, pamphlet or except as otherwise expressly the authorized in writing by Company. The Distributor shall not combine as a unitary or composite mark any other trade mark with any trade mark or use any other trade mark on product labels, wrappers, advertising or promotional materials approved, (except as may be required by and/or) in writing by Company.

23.6  The Distributor shall indemnify and keep indemnified Company harmless from and against any and all claims losses damages expenses or liabilities of any nature of whatsoever caused by the use adoption of logo, trade name, trade mark, design, copyright

**24. DISTRIBUTOR EMPLOYEES**

24.1  It is expressly agreed and understood between the parties that all the staff and personnel employed by the Distributor are and all time be and remain as Distributor's employees. Such persons engaged by the Distributor in connection with the performance of the obligations under this Agreement, shall at no time become or be deemed to have become Company's employees, agents, representatives or servants.

24.2  As their clear and rightful employer the Distributor shall have the exclusive liability and responsibility for compliance of requirements under various enactments, laws and other obligations with regard to these employees.

24.3  The Distributor undertakes to keep Company fully and completely harmless and indemnified against any claim demand made on Company by the Distributor employees or any statutory authority and/or government.

**25. DISTRIBUTOR TO RETURN DOCUMENTS**

On the termination of this agreement the Distributor shall forthwith return to Company all books, documents, papers, software packages, industrial property and other property in possession of the Distributor.

**26. NO WAIVER**

Any failure on the part of COMPANY to enforce at any time the provisions of this Agreement shall in no way be construed to be waiver of such provisions or affect COMPANY's right to enforce such provision any time thereafter. If the Distributor is a partnership firm all the partners shall be jointly and severally liable in respect of all dues, liabilities and transactions arising from this agreement or in connection therewith.

**27. GOVERNING LAW & JURISDICTION**

This Agreement shall be governed by, performed under and construed in accordance with the laws of India and Courts situated at \_\_\_\_\_\_\_\_ shall have exclusive jurisdiction over any other Court.

The Distributor agrees that the place for all goods sold or supplied to him by Company under this agreement is the \_\_\_\_\_\_ (Name of City)(\_\_\_\_\_\_\_\_\_\_ STATE) and that any suit to enforce the rights of either party under or in respect of this agreement shall be instituted in and tried by a competent court only in the City of \_\_\_\_\_\_ (Name of City)(\_\_\_\_\_\_\_\_\_\_ STATE) and in no other court. The Distributor further expressly agrees to submit to the jurisdiction of such court.

**28. ARBITRATION**

In the event of any disputes or differences of whatsoever nature arising between the parties in connection with this Agreement, the same shall be resolved through negotiations, failing which the same shall be referred to arbitration. The Arbitration proceedings will be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof for the time being in force. The Award passed by the Arbitrator/s in pursuance of such Arbitration proceedings shall be binding upon both parties hereto. The venue of Arbitration would be \_\_\_\_\_\_\_\_\_\_ and the arbitration proceedings shall be conducted in English language.

**29. COMMISSIONS**

In consideration of the services rendered by the Firm, Company will pay to the Firm Commission & other charges as agreed from time to time. The Cash Discount if applicable upon mutual acceptance by parties be payable by Company only if the payments are received as per the agreed terms, if any, from date of Invoice between Company & Distributor.

**30. SUPERSEDES PREVIOUS AGREEMENTS**

This agreement supersedes all previous communications, representations, assurances or agreement either written or oral between the parties hereto or between “The Distributor” and any other Entity to which Company is a successor

**31. AGREEMENT IN DUPLICATE**

The agreement is executed in duplicate the original whereof will remain with Company and the duplicate will remain with the Distributor.

**32. HEADINGS / CAPTIONS**

The Headings / Captions to the various sections/clauses are given to facilitate easy location and shall not be referred for construction or interpretation thereof.

**33. NOTICE**

Any notice required or permitted to be given hereunder shall be in writing and shall be effective and deemed received upon personal delivery or receipt of email with subsequent confirmation by registered or certified airmail or three (3) business days after deposit in the mail sent by registered or certified airmail, return receipt required, postage fully prepaid, addressed as follows:

**34. FORCE MAJEURE**

Neither party shall be liable in any manner for failure or delay upon performance of any obligation under this Agreement, directly or indirectly, owing to acts of God, governmental orders or restrictions, war, war-like conditions, riot, strike, lockout, sabotage, fire, flood, earthquake or any other causes or circumstances beyond such party's control.

**35. LIMITATION OF LIABILITY**

In no event shall either party be liable to the other party for any indirect, special, incidental, consequential or punitive damages incident to, arising out of, in connection with, or resulting from its performance or failure to perform, or the furnishing, performance, or use of any goods or materials sold or provided pursuant hereto, or services rendered, whether occasioned, brought about, caused, or due to a breach of contract, breach of warranty, negligence, or otherwise of a party, its agents, directors, officers, employees or subcontractors.

**36. ASSIGNMENT**

The parties acknowledge that this Agreement is personal in nature and agree that this Agreement shall not be assigned, in whole or in part, by either party without the prior written consent of the other party. Any purported assignment of this Agreement of any right and obligation therein without the written consent of the other party shall be null and void.

**37. SEVERABILITY**

In the event that any provision or provisions of this Agreement should be invalid, the remainder of this Agreement shall remain in full force and effect. The parties agree to replace such invalid provision or provisions by valid ones which will have an economic effect as close as possible to the invalid provision or provisions.

**38. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement and understandings between both parties as to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous agreements, written or oral, as to such subject matter. This Agreement may be changed only in writing stating that it is an amendment or modification to this Agreement, and signed by an authorized representative of each of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized officers or agents as set forth below on the day and year first above written.

**SIGNED AND DELIVERED by )**

For and on behalf of **Company )**

Name: Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_ )

Designation: \_\_\_\_\_\_\_\_\_\_ )

In presence of: - )

Name: )

**SIGNED AND DELIVERED by )**

For and on behalf of the <<Distributors Name>> **)**

Name: Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

Designation:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

In presence of: )

Name: )

**Appendix I: Product Schedule**