

DATED 200

[PRODUCT NAME] DISTRIBUTION CONTRACT

- by and between -

[SUPPLIER NAME]

SUPPLIER

- and -

[DISTRIBUTOR NAME]

DISTRIBUTOR

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[PRODUCT NAME] DISTRIBUTION CONTRACT

THIS CONTRACT ("Contract") is made in [city and province], China on this [●] day of [●], 200[●] by and between [Supplier name], [Supplier entity form] organized and existing under the laws of [Supplier jurisdiction of incorporation] with its [registered address][principle place of business] at [address] (hereinafter referred to as "Supplier"), and [Distributor name], [Distributor entity form] established and existing under the laws of China, with its [registered address][principle place of business] at [address] (hereinafter referred to as "Distributor"). Distributor and Supplier shall hereinafter be referred to individually as a "Party" and collectively as the "Parties".

PRELIMINARY STATEMENT

After friendly consultations conducted in accordance with the principles of equality and mutual benefit, the Parties have agreed to enter into a distributorship relationship in accordance with Applicable Laws and the provisions of this Contract.

Now the Parties Hereby Agree as Follows:

1. DEFINITIONS AND INTERPRETATION

Unless the terms or context of this Contract otherwise provide, this Contract shall be interpreted in accordance with, and each of the terms used herein shall have the meaning ascribed to it in Schedule A.

2. SCOPE OF CONTRACT

2.1 Appointment

(a) The Supplier hereby appoints Distributor as its [non-]exclusive distributor in the Territory for the Products listed in Annex 1 to this Contract as may be amended by written agreement between Supplier and Distributor from time to time.

(b) The Distributor shall purchase all its requirements of the Products from Supplier or its Affiliates during the Term.

2.2 Restriction on Sales by Supplier The Supplier shall not supply the Products in the Territory to any other person during the Term [for resale but Supplier reserves the right to sell the Products direct to end users in the Territory].

2.3 Competing Products

The Distributor shall not (and shall procure that none of its Affiliates shall) manufacture or sell in the Territory any products that compete with the Products during the Term.

2.4 Restrictions on Resale

The Distributor shall not sell the Products to any person outside the Territory[or to any person who has the intention to transport the Products outside the Territory].

2.5 Minimum Purchases and Stocks

(a) The Distributor shall purchase from Supplier at least the minimum quantities of the Products specified in Annex 1 to this Contract.

(b) The Distributor shall at all times during the Term carry the full range of Products and shall maintain at least [three (3) months] stocks of the Products.

2.6 Training

At least [two (2)] representatives of Distributor shall attend a training course in the service and repair of the Products at Supplier's place of business, all expenses in connection therewith to be met by the [Supplier except travelling and subsistence expenses] [Distributor].

3. CONDITIONS OF SALE

3.1 Sale and Purchase of Products

The Supplier shall sell and Distributor shall purchase the Products subject to the conditions of sale set out in Annex 2 to this Contract, which shall be deemed to be incorporated into and form part of this Contract. If there is any conflict or inconsistency between the provisions of Annex 2 and the rest of this Contract, the latter shall prevail.

3.2 Distributor's Terms Not Applicable

Neither Distributor's standard conditions of purchase nor any terms or conditions in any order forms or other documents prepared by Distributor shall apply to the sale of the Products by Supplier to Distributor.

4. ORDERING

4.1 Written Order

The Distributor shall during the Term submit in writing to Supplier on a monthly basis:

(a) firm orders for Products to be supplied within the [two (2) months] following the month in which the order is submitted; and

(b) detailed estimates of its requirements for Products to be supplied in the [four (4) months] thereafter.

4.2 Acceptance of Order

This Contract establishes the framework under which the sale and purchase of Products between Supplier and Distributor will be conducted. However, no rights and obligations for the supply of the Products shall arise between Supplier and Distributor unless and until a firm order has been accepted in writing by Supplier.

5. PROMOTION

5.1 Distributor's Best Endeavours

The Distributor shall, at all times during the term of this Contract, actively promote and use its best endeavours to increase sales of the Products in the Territory and shall not do anything that may prevent sales or interfere with the development of sales of the Products in the Territory.

5.2 Distributor's Promotion Obligations

In particular (but without limiting the generality of Article 5.1) Distributor shall:

(a) employ a sufficient number of adequately trained salesmen, demonstrators and other necessary sales personnel;

(b) establish and maintain adequate sales systems, including, by way of example, demonstrations, exhibitions and lectures to interested groups, to deal with the requirements of its customers and potential customers within the Territory;

(c) distribute promotional literature about the Products; and

(d) exhibit at relevant trade exhibitions.

5.3 Consultation with Supplier

The Distributor shall consult with and obtain the approval of Supplier before advertising or publishing promotional material for the Products [save that nothing in this Article or elsewhere in this Contract shall limit Distributor's freedom to set its own resale prices for the Products].

6. STORAGE AND PRODUCT RECALL

6.1 Storage and Transport of Products

The Distributor shall store and transport the Products in conditions that will preserve the Products in good condition and will comply with any reasonable requests made by Supplier concerning the conditions in which the Products are to be stored or transported. The Distributor shall permit Supplier or its representatives to inspect Products in its possession from time to time [on reasonable prior [written] notice].

6.2 Product Recall

If requested by Supplier, Distributor shall give all reasonable assistance in locating and recovering any defective Products and preventing their sale to third parties and, in particular, shall comply with any product recall procedures adopted by Supplier and shall use its best endeavours to ensure that its customers co-operate in a similar manner.

7. REPAIR AND MAINTENANCE SERVICE

7.1 Provision of Services

Distributor shall provide repair and maintenance services for the Products to owners and users in the Territory, and Supplier shall provide appropriate support services to Distributor, all in accordance with the terms of support services of Supplier in effect at the time. The current terms of support services of Supplier is attached hereto as Annex 3.

7.2 Repairs and Maintenance to Products

In order to carry out repairs and maintenance to the Products, Distributor shall employ qualified engineers and shall maintain such repair and service equipment as may reasonably be required by Supplier from time to time.

7.3 Sale and Use of Spare Parts

Supplier shall sell to Distributor spare parts for the Products in accordance with the conditions of sale set out in Annex 2 hereto. In order to maintain design and quality standards Distributor shall use only spare parts for the Products which are supplied by Supplier or its Affiliates.

8. REPORTING

The Distributor shall at its own expense provide Supplier [by the end of the first week in each month] with a written report containing such information as Supplier may reasonably require including a report on the quality and performance of goods contained in each shipment and a stock and sales return.

9. COMPLIANCE WITH LOCAL LAWS

The Distributor shall comply with all Applicable Laws existing in the Territory from time to time concerning the Products and shall keep Supplier informed of any relevant changes therein. In particular but without limitation Distributor (i) shall at its own expense obtain all necessary permissions, consents and licences to enable Distributor to market and sell the Products in the Territory; (ii) shall obtain any other governmental or other permission, consent or licence or make any registration necessary for the full and legal operation and performance of this Contract; (iii) shall be responsible for the management of the importation of the Products into the Territory in compliance with Applicable Laws and the payment of all applicable import duties, taxes and other charges, and shall promptly upon Supplier's request provide to Supplier copies of all documents evidencing the same.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 No Distributor Entitlement

Nothing in this Contract shall entitle the Distributor to any Intellectual Property Rights owned or used by Supplier or any of its Affiliates (the "Supplier's Intellectual Property Rights") or to any goodwill attaching thereto.

10.2 Notification of Infringement

The Distributor shall inform Supplier promptly of any potential, threatened, alleged or actual infringement of any of Supplier's Intellectual Property Rights and shall provide all assistance and information required by Supplier in connection with any such infringement and shall, if Supplier so requests, at the expense of Supplier, join in any court or other proceedings relating to such infringement.

10.3 No Alteration

The Distributor shall not sell the Products under any other name or mark other than the names or marks used by Supplier in relation to the Products nor remove or obliterate those names or marks from the Products nor make any other alteration to the Products or their labelling.

11. CONDITIONS PRECEDENT

[insert conditions precedent as appropriate]

12. REPRESENTATIONS AND WARRANTIES

12.1 Distributor's Representations and Warranties

Distributor represents and warrants to Supplier that on the date hereof [and as of the Effective Date]:

- (a) it is an independent legal person duly organized, validly existing in good standing under the laws of the place of its establishment or incorporation;
- (b) it has full authority to enter into this Contract and to perform its obligations hereunder;
- (c) it has authorized its representative to sign this Contract and from and after the Effective Date the provisions of this Contract shall be legally binding upon it;
- (d) its execution of this Contract and its performance of its obligations hereunder: (i) will not violate any provision of its business license, articles of incorporation, articles of association or similar organizational documents; (ii) will not violate any Applicable Laws or any governmental authorization or approval; and (iii) will not violate or result in a default under any contract to which it is a party or to which it is subject;
- (e) no lawsuit, arbitration or other legal or governmental proceeding is pending or, to its knowledge, threatened against it that would affect its ability to perform its obligations under this Contract; and
- (f) it has disclosed to Supplier all documents issued by any governmental department that may have a material adverse effect on its ability to fully perform its obligations under this Contract, and the documents previously provided by it to Supplier do not contain any misstatements or omissions of material facts.

12.2 Consequences of Inaccuracy in Representations and Warranties

If any of the above representations and warranties of Distributor are not accurate in all material respects on the date hereof [or the Effective Date], then Distributor shall be in material breach of this Contract.

13. TERM

13.1 Initial Term Subject to the provisions of Articles 13.2 and 14.1(b), (c) and (d), the initial term of the Contract shall be [●] years, commencing on the Effective Date.

13.2 Extension

[Choose one of the following alternatives:

Option (1): Automatic Expiration

[The Term shall expire automatically on the Expiration Date, unless extended for an additional term of [●] years through a written agreement signed by the authorized representatives of the Parties at least [sixty (60)] days prior to the Expiration Date.]

Option (2): Automatic Renewal

[On the Expiration Date, the Term shall automatically renew for an additional term of [●] years, unless either Party notifies the other Party of its decision not to renew this Contract through a written notice signed by its authorized representative and delivered to the other Party at least [sixty (60)] days prior to the Expiration Date.]

Option (3): [Client] with Option to Renew

[[Client] shall have the option to renew this Contract through a written notice signed by its authorized representative and delivered to the other Party at least [sixty (60)] days prior to the Expiration Date. If [Client] fails to exercise its option to renew

the Contract, then the Term shall expire automatically on the Expiration Date.]]

14. TERMINATION

14.1 Termination of Contract

- (a) This Contract shall terminate upon the Expiration Date unless extended pursuant to Article 13.2.
- (b) This Contract may be terminated at any time prior to Expiration Date by the mutual written agreement of the Parties.
- (c) At any time prior to the Expiration Date, a Party ("Notifying Party") may terminate this Contract through notice to the other Party in writing if:
 - (i) the other Party materially breaches this Contract, and such breach is not cured within the Cure Period granted pursuant to Article 16.1(a); or
 - (ii) the other Party becomes bankrupt, or is the subject of proceedings for liquidation or dissolution, or ceases to carry on business or becomes unable to pay its debts as they come due; or
 - (iii) the conditions or consequences of Force Majeure which have a material adverse effect on the affected Party's ability to perform continue for a period in excess of six (6) months and the Parties have been unable to find an equitable solution pursuant to Article 17.2(c) hereof; or
 - (iv) [insert other conditions triggering termination as appropriate]
- (d) At any time prior to the Expiration Date, in addition to other remedies available to it under Applicable Laws and other provisions of this Contract, Supplier may terminate this Contract immediately through notice to Distributor in writing if:
 - (i) Distributor fails to observe Articles 2.3 (Competing Products), 2.4 (Restrictions on Resale) and 2.5 (Minimum Purchases and Stocks);
 - (ii) ownership or control of Distributor is acquired by a person, firm or company that manufactures or sells (directly or through its Affiliates) products that compete with the Products [or there is any other material change in the ownership of Distributor that Supplier considers to be detrimental to its interests]; or
 - (iii) Distributor infringes any of Supplier's Intellectual Property Rights, including its failure to observe Article 10 (Intellectual Property).

14.2 No Compensation

The Distributor shall not be entitled to any compensation whatsoever as a result of Supplier's termination of this Contract in accordance with this Article 14.

14.3 Effects of Termination

Upon termination of this Contract:

- (a) any stocks of the Products in saleable condition and in the possession of Distributor, shall be forthwith held to the order of Supplier and (if requested by Supplier) any such Products which have been paid for in full by Distributor shall be resold by Distributor to Supplier or such person as Supplier shall specify at [cost price], due allowance being made for old stock and any out of condition or unsaleable Products;
- (b) Distributor shall return to Supplier all documents supplied by Supplier which relate to the Products or any aspect of the business of Supplier together with all copies thereof;
- (c) Distributor shall cease to represent in any way that it is an authorised distributor for the Products and shall not make any further use of any of Supplier's Intellectual Property Rights;
- (d) Distributor shall use its best endeavours to supply to the Company the names and addresses of:
 - (i) all persons to whom it has sold Products [in respect of which the warranty period has not expired at the date of termination]; and
 - (ii) all persons for whom it has undertaken repair and servicing in respect of the Products during the course of this Contract; and
- (e) to the extent that the Contract is terminated as a result of breach by Distributor, Distributor shall (if legally possible) assign to Supplier free of charge all permissions, consents and licences (if any) relating to the marketing and sale of the Products and execute all documents and do all things necessary to ensure that Supplier shall have the benefit of such permissions, consents and licences.

14.4 [Restricted Activities]

In order to protect know-how transferred by Supplier to Distributor, Distributor shall not manufacture, purchase, sell or resell goods that compete with the Products from the premises used by Distributor for a period of one year after the termination of this Contract. The Distributor acknowledges that this restriction is indispensable to protect the know-how received from Supplier.]

14.5 Continuing Obligations

The provisions of Article 14.3 (Effects of Termination) and Article 14.4 (Restricted Activities), Article 15 (Confidentiality), Article 16 (Breach of Contract) (but only with respect to claims arising prior to the termination hereof or with respect to other continuing obligations) and Article 18 (Settlement of Disputes) shall survive the termination of this Contract.

15. CONFIDENTIALITY

15.1 Confidentiality Obligations

From time to time prior to and during the Term either Party ("disclosing Party") has disclosed or may disclose Confidential Information to the other Party ("receiving Party"). The receiving Party shall, during the Term and for [●] years thereafter:

- (a) maintain the confidentiality of Confidential Information;
- (b) not use Confidential Information for any purposes other than those specifically set out in this Contract; and
- (c) not disclose any such Confidential Information to any person or entity, except to its employees or employees of its Affiliates, its agents, attorneys, accountants and other advisors who need to know such information to perform their responsibilities and who have signed written confidentiality agreements containing terms at least as stringent as the terms provided in this Article 15 (collectively "Permitted Disclosure Parties").

15.2 Confidentiality Exceptions

The provisions of Article 15.1 above shall not apply to information that:

- (a) can be shown to be known by the receiving Party by written records made prior to disclosure by the disclosing Party;
- (b) is or becomes public knowledge otherwise than through the receiving Party's breach of this Contract; or
- (c) was obtained by the receiving Party from a third party having no obligation of confidentiality with respect to such information.

15.3 Confidentiality Rules

Each Party shall formulate rules and regulations to inform its directors, senior staff, and other employees, and those of their Affiliates of the confidentiality obligation set forth in this Article 15.

15.4 Return of Material

On the Expiration Date [or upon the disclosing Party's request at any time], the receiving Party shall (i) return to the other Party, or at the disclosing Party's direction destroy, all materials (including any copies thereof) embodying the other Party's Confidential Information and (ii) certify in writing to the other Party, within ten (10) days following the other Party's request, that all of such materials have been returned or destroyed.

16. BREACH OF CONTRACT

16.1 Remedies for Breach of Contract

Except as otherwise provided herein, if a Party ("breaching Party") fails to perform any of its material obligations under this Contract or otherwise is in material breach of this Contract, then the other Party ("aggrieved Party") may:

(a) give written notice to the breaching Party describing the nature and scope of the breach and demand that the breaching Party cure the breach at its cost within a reasonable time specified in the notice ("Cure Period") (provided that if any representation and warranty of a Party under Article 12.1 is not true and correct in all material respects when made, or if there is a breach of Article 15, or if any event listed in Article 14.1 (d) occurs, then there shall be no Cure Period); and
(b) if the breaching Party fails to cure the breach within the Cure Period (or, if there is none, at any time following such breach), then in addition to its other rights under Article 14.1(c)(i) or Applicable Laws, the aggrieved Party may claim direct and foreseeable damages arising from the breach.

16.2 Limitation on Liability

Notwithstanding any other provision of this Contract, [except for breach of Section 15 (Confidentiality) and breach of Section 10 (Intellectual Property Rights),] neither Party shall be liable to the other Party for damages for loss of revenues or profits, loss of goodwill or any indirect or consequential damages in connection with the performance or non-performance of this Contract. [Except for a breach of Section 15 (Confidentiality) and a breach of Section 10 (Intellectual Property Rights),] the aggregate liability of a Party for all claims for any loss, damage or indemnity whatsoever resulting from such Party's performance or non-performance of this Contract shall in no case exceed [●] United States Dollars (US\$[●]) or the RMB equivalent thereof.

17. FORCE MAJEURE

17.1 Definition of Force Majeure

"Force Majeure" shall mean all events which are beyond the control of the Parties to this Contract, and which are unforeseen, unavoidable or insurmountable, and which prevent total or partial performance by either of the Parties. Such events shall include earthquakes, typhoons, flood, fire, war, strikes, riots, acts of governments, changes in law or the application thereof or any other instances which cannot be foreseen, prevented or controlled, including instances which are accepted as Force Majeure in general international commercial practice.

17.2 Consequences of Force Majeure

(a) If an event of Force Majeure occurs, a Party's contractual obligations affected by such an event under this Contract shall be suspended during the period of delay caused by the Force Majeure and shall be automatically extended, without penalty or liability, for a period equal to such suspension.
(b) The Party claiming Force Majeure shall promptly inform the other Parties in writing and shall furnish within [fifteen (15)] days thereafter sufficient proof of the occurrence and duration of such Force Majeure. The Party claiming Force Majeure shall also use all reasonable endeavours to terminate the Force Majeure.
(c) In the event of Force Majeure, the Parties shall immediately consult with each other in order to find an equitable solution and shall use all reasonable endeavours to minimize the consequences of such Force Majeure.

18. SETTLEMENT OF DISPUTES

18.1 Friendly Consultations

In the event of any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity hereof ("dispute"), the Parties shall attempt in the first instance to resolve such dispute through friendly consultations.

18.2 Arbitration

[Choose one of the following two alternatives:

Either

Option (1): CIETAC Rules

(a) In the event such dispute is not resolved through consultations within [sixty (60)] days after the date such consultations were first requested in writing by a Party, then any Party may submit the dispute for arbitration in [Beijing] before the China International Economic and Trade Arbitration Commission ("CIETAC") in accordance with CIETAC Arbitration Rules then in force, and as amended by this Article 18.2 ("Arbitration Rules").
(b) The arbitration tribunal shall consist of three arbitrators, one appointed by each Party and, if either of the Parties fails to appoint an arbitrator within the time specified in the Arbitration Rules, the Chairman of CIETAC shall make such appointment, taking into consideration the criteria set out in this Article 18.2.
(c) A third arbitrator (the "Presiding Arbitrator") shall be appointed by agreement between the Parties in accordance with the provisions of Articles 18.2 (d) and (e) below, and, if the Parties fail to jointly appoint the Presiding Arbitrator within the time specified in the Arbitration Rules, the Chairman of CIETAC shall make such appointment, taking into consideration the criteria set out in this Article 18.2.
(d) No arbitrator may be a national of (i) the PRC or (ii) [home country of Party B].
(e) The Presiding Arbitrator (and any successor or replacement appointee in place of any Presiding Arbitrator initially appointed) shall, unless otherwise agreed in writing by the Parties, be a national of one of the following countries:
(i) Australia;
(ii) Belgium;

- (iii) Canada;
 - (iv) New Zealand;
 - (v) Sweden;
 - (vi) Switzerland;
 - (vii) The Netherlands; or
 - (viii) The United Kingdom.
- (f) The arbitration proceedings shall be conducted in the English language.
- (g) All costs of arbitration (including but not limited to arbitration fees, costs of arbitrators and legal fees and disbursements) shall be borne by the losing party, unless otherwise determined by the arbitration tribunal.
- (h) The provisions of Chapter III of the Arbitration Rules (concerning summary procedure) are excluded, regardless of whether the total amount of the claim amounts to RMB 500,000.
- [NB: This clause could be considered to be a variation to the CIETAC Rules. Article 7 of the CIETAC Rules states that variations to the Rules are subject to consent by the Arbitration Commission].

Or

Option (2): SIAC Rules

- (a) In the event the dispute is not resolved through consultations within [sixty (60)] days after the date such consultations were first requested in writing by a Party, then any Party may submit the dispute to Singapore International Arbitration Centre ("SIAC") for arbitration in Singapore in accordance with the Arbitration Rules of the SIAC then in force, and as amended by this Article 18.2 ("Arbitration Rules").
- (b) The tribunal shall consist of [one] [three] arbitrator(s) to be appointed by the Chairman of the SIAC.
- (c) The language of the arbitration shall be English.]

18.3 Procedural Compliance

The Parties undertake:

- (a) to comply strictly with the time limits specified in the Arbitration Rules for the taking of any step or the performance of any act in or in connection with any arbitration; and
- (b) to comply with and to carry out, in full and without delay, any procedural orders (including, without limitation to, any interim measures of protection ordered) or any award (interim or final) made by the arbitral tribunal.

18.4 Enforcement of Award

Each of the Parties irrevocably:

- (a) agrees that any arbitral award shall be final and binding;
- (b) undertakes that it will execute and perform the arbitral award fully and without delay. In the event of judicial acceptance and an order of enforcement, each party expressly waives all rights to object thereto, including any defense of sovereign immunity and any other defense based on the fact or allegation that it is an agency or instrumentality of a sovereign state; and
- (c) waives any rights which it may have to contest the validity of the arbitration agreement set forth in this Article or the jurisdiction of the relevant arbitration institution to hear and to determine any arbitration begun pursuant to this Article 18. When any dispute occurs and is the subject of friendly consultations or arbitration, the Parties shall continue to exercise their remaining respective rights and fulfil their remaining respective obligations under this Contract, except in respect of those matters under dispute.

18.5 Injunctive Relief

Notwithstanding the foregoing, the Parties agree that each Party has the right to seek temporary or permanent injunctive or other similar relief in any court or other authority of competent jurisdiction in respect of any claims of breach of confidentiality or IPR infringement or for an order of specific performance or other injunctive relief as permitted under Applicable Laws.

18.6 Governing Law

The validity, interpretation and implementation of this Contract shall be governed by the laws of [the People's Republic of China][[another jurisdiction] (without regard to its rules governing conflict of laws)].

19. MISCELLANEOUS PROVISIONS

19.1 Independent Contractor Relationship

The Parties are only establishing a vendor-purchaser relationship with each other by entering into this Contract. Nothing in this Contract shall be construed or implied as:

- (a) establishing between the Parties hereto any partnership or any other form of relationship entailing joint liability;
- (b) constituting either of the Parties hereto as the agent of the other Party (except with the other Party's prior written consent); or
- (c) authorizing either Party to incur any expenses or any other form of obligation on behalf of the other Party (except with the other Party's prior written consent).

19.2 Binding Effect

This Contract is made for the benefit of the Parties hereto and their respective lawful successors and assignees and is legally binding on them.

19.3 Amendment

This Contract shall not be changed verbally, but only by a written instrument signed by the Parties.

19.4 Mutual Agreement of the Parties

THE PARTIES DECLARE THAT THE PROVISIONS OF THIS CONTRACT REFLECT THE RESULTS OF THEIR COMMERCIAL NEGOTIATIONS CONDUCTED IN GOOD FAITH AND THAT NONE OF THE PROVISIONS HEREOF CONSTITUTES THE STANDARD TERMS OF EITHER PARTY. DISTRIBUTOR ACKNOWLEDGES THAT IT HAS REVIEWED AND UNDERSTANDS THE PROVISIONS OF THIS CONTRACT AND HAS RECEIVED SATISFACTORY EXPLANATIONS AS TO ANY ISSUE RAISED BY IT IN RESPECT THEREOF.

19.5 No Publicity

The existence of this Contract, as well as its contents, shall be deemed to fall within the scope of Confidential Information and subject to Article 15, and shall not be disclosed in whole or in part to any person or entity, except (i) to Permitted Disclosure Parties, (ii) to authorized securities regulators or exchanges in accordance with Applicable Laws or the relevant

rules of the securities exchange to which the Party in question is subject, (iii) to officials in relevant government departments pursuant to the requirements of Applicable Laws, (iv) in order to fulfil any conditions precedent to the effectiveness of this Contract or (v) for the purpose of the performance by a Party of its obligations or exercise of its rights hereunder or relating hereto.

19.6 No Solicitation

Neither Party shall, during the Term or within one (1) year after the Expiration Date, directly solicit for employment the other Party's personnel who are engaged in the performance of this Contract without the prior written consent of the other Party.

19.7 Notices

(a) Any notice or written communication provided for in this Contract by either Party to the other, including but not limited to any and all offers, writings, or notices to be given hereunder, shall be made in [language] and delivered:

- (i) by hand;
- (ii) by courier service delivered letter; or
- (iii) by facsimile.

(b) Notices shall be deemed to have been delivered at the following times:

- (i) if by hand, on reaching the designated address and subject to return receipt or other proof of delivery;
- (ii) if by courier, the [fifth] Business Day after the date of dispatch; and
- (iii) if by fax, upon the next Business Day following the date marked on the confirmation of transmission report by the sender's fax machine, indicating completed uninterrupted transmission to the relevant facsimile number.

(c) During the Term, each Party may change its particulars for receipt of notices at any time by notice given to the other Party in accordance with this Article 19.7.

Distributor:

[mailing address]

People's Republic of China

Facsimile No:

Attention:

Supplier:

[mailing address]

Facsimile No:

Attention:

19.8 Waiver

Either Party's failure to exercise or delay in exercising any right, power or privilege under this Contract shall not operate as a waiver thereof, and any single or partial exercise of any right, power or privilege shall not preclude the exercise of any other right, power or privilege.

19.9 Assignability

The Distributor may not assign in whole or in part any of its rights hereunder or any rights arising from any individual order for the purchase of the Products without the prior written consent of Supplier. The Supplier shall be entitled to assign in whole or in part any of its obligations hereunder or arising from any individual order for the purchase of the Products to any of its Affiliates or suppliers solely upon written notice to Distributor, provided that Supplier shall remain fully liable for the performance of such obligations.

19.10 Severability

The invalidity of any provision of this Contract shall not affect the validity of any other provision of this Contract.

19.11 Entire Agreement

This Contract and the Schedules and Annexes hereto constitute the entire agreement between the Parties hereto with respect to the subject matter of this Contract and supersede all prior discussions, negotiations and agreements between them, including, the [Memorandum of Understanding between [●] and [●] dated [●]] the [Letter of Intent between [●] and [●] dated [●]] [refer to all MOUs, LOIs previously signed]

19.12 Further Endeavours

A Party shall, at any time, upon the request of the other Party, execute or procure the execution of such documents, agreements, contracts or deeds and do or procure the doing of such acts and things as may be [reasonably] necessary to give full effect to the provisions of this Contract.

19.13 Costs

Save as otherwise provided in this Contract, each Party shall bear its own legal and other professional costs in relation to the preparation, negotiation and entry into of this Contract.

19.14 Schedules and Annexes

The Schedules and Annexes hereto are made an integral part of this Contract and are equally binding with the main body of the Contract. In the event of any conflict between the terms and provisions of the main body of the Contract and the Schedules or Annexes, the terms and provisions of the main body of this Contract shall prevail.

19.15 Language

This Contract is executed in the Chinese language in [●] ([●]) originals and in the English language in [●] ([●]) originals. Both language versions shall be equally authentic.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Contract to be executed by its duly authorized representative on the date first set forth above.

[Distributor name] [Supplier name]

By: _____ By: _____

Name: [Distributor rep name] Name: [Supplier rep name]

Title: [Distributor rep position] Title: [Supplier rep position]

Nationality: [Chinese] Nationality: [Supplier rep nationality]

SCHEDULE A

DEFINITIONS AND INTERPRETATION

Part A - Definitions

Unless the terms or context of this Contract otherwise provide, the following terms shall have the meanings set out below:

"Affiliate" means any entity which, directly or indirectly, is controlled by, under common control with, or in control of, a Party; the term "control" being used in the sense of power to elect or appoint a majority of directors or to direct the management of a company.

"aggrieved Party" shall have the meaning set out in Article 16.1.

"Applicable Laws" means the laws, regulations, rules, notices, and other legislative, executive or judicial decisions or pronouncements binding on either Party or in relation to the subject matter of this Contract.

"breaching Party" shall have the meaning set out in Article 16.1.

"Business Day" means:

(a) (a) in respect of any action to be taken in the PRC, any day on which the companies in the PRC are generally open for business in the PRC, including a Saturday or Sunday which the PRC government temporarily declares to be a working day ("Working Rest Day"), but excluding a statutory holiday, or a Saturday or Sunday other than a Working Rest Day; and

(b) (b) in respect of any action to be taken in [Supplier Home Country], any day on which the companies in [Supplier Home Country] are generally open for business in [Supplier Home Country].

"China" and "PRC" mean the People's Republic of China, but for purposes of this Contract do not include the special administrative regions of Hong Kong and Macau and the region of Taiwan.

"Confidential Information" means any business, marketing, technical, scientific or other information disclosed by any Party (including in the case of Supplier, its Affiliates) which, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the Parties, exercising reasonable business judgement, to be confidential.

"Contract" shall have the meaning set out in the preamble.

"Cure Period" shall have the meaning set out in Article 16.1(a).

"disclosing Party" shall have the meaning set out in Article 15.1.

"dispute" shall have the meaning set out in Article 18.1.

"Distributor" shall have the meaning set out in the preamble.

"Effective Date" means the [date of this Contract first shown above][the date on which each of the conditions precedent in Article 11 has been satisfied or waived in accordance with the terms thereof].

"Expiration Date" means the day on which the initial Term or any extended Term expires in accordance with the provisions of Articles 13.2 and 14.1.

"Force Majeure" shall have the meaning set out in Article 17.1.

"Intellectual Property Rights" or "IPR" means any and all rights in any invention, discovery, improvement, utility, model, copyrightable work, industrial design or mask work, algorithm, data structure, trade secrets or know-how, Confidential Information, or any idea having commercial value. IPR shall include any trademark, trade dress, trade name, domain name, or other marks that serve to identify and distinguish goods or services as coming from, or falling under the control of, a single source. IPR shall include all rights of whatsoever nature in computer software and data, all intangible rights or privileges of a nature similar to any of the foregoing in every case in any part of the world and whether or not registered, and all rights in any applications and granted registrations for any of the foregoing rights.

"Notifying Party" shall have the meaning set out in Article 14.1(c).

"Party" shall have the meaning set out in the preamble.

"Parties" shall have the meaning set out in the preamble.

"Products" mean the products listed in Annex 1 hereto, as amended from time to time in writing by the Parties.

"Permitted Disclosure Parties" shall have the meaning set out in Article 15.1(c).

"receiving Party" shall have the meaning set out in Article 15.1.

"Renminbi" or "RMB" means the lawful currency of China from time to time.

"Supplier" shall have the meaning set out in the preamble.

"Term" means the term of the Contract from the Effective Date through the Expiration Date.

"Territory" means China.

"United States Dollars" or "US\$" means the lawful currency of the United States of America.

[Insert other definitions as appropriate]

Part B - Interpretation

1. A reference to any Applicable Laws or to any legislation or to any provision of Applicable Laws or of any legislation includes a reference to such Applicable Laws or legislation as amended or modified from time to time.

2. A reference to a "person" includes any individual or entity (including any company, business or other enterprise or entity, joint venture, institution, state or government department), as the context permits.

3. References to Schedules, Annexes, Articles and Sections are references to schedules, annexes, articles and sections of this Contract. References in this Contract to contracts, agreements or other documents, shall mean the same as amended from time to time.

4. A reference to any PRC government authority or department includes such authority or department at State, provincial, municipal and other levels.

5. References in this Contract to government ministries, bureaux, departments, commissions, agencies, etc. shall include all successor entities thereto.

6. In this Contract, the masculine form includes the feminine form and the singular form includes the plural form, and vice versa.

7. Headings are for convenience of reference only and shall not affect the construction or interpretation of this Contract.

8. A reference to any Party to this Contract or to any other party to any contract, agreement or document includes a reference to that party's successors and permitted assigns.

9. The words "includes" or "including" mean "includes without limitation" and "including without limitation" respectively.

ANNEX 1

TO [PRODUCT NAME] DISTRIBUTION CONTRACT PRODUCTS

ANNEX 2

TO [PRODUCT NAME] DISTRIBUTION CONTRACT CONDITIONS OF SALE

ANNEX 3 TERMS OF SUPPORT SERVICES

CAVEATS AND DRAFTING NOTES

1. Caveats

1.1 Independent Legal Advice

The user of this template is required to exercise independent legal judgment or take independent legal advice in respect of each provision of this template and make any and all revisions or supplements necessary or appropriate to ensure that such provisions (a) are applicable and appropriate to the subject transaction, and (b) comply with relevant requirements of applicable law as then in effect.

1.2 User Discretion

Items left blank in the template are to be completed by the user in accordance with the requirements of the subject transaction. Certain provisions and phrases have been placed in square brackets in order to draw the particular attention of the user thereto and such provisions or phrases in square brackets are to be used, completed, modified or deleted as the user determines appropriate.

2. Drafting Notes

2.1 General Drafting Notes

This template has been drafted in contemplation of a distribution arrangement with the following characteristics (and thus may not be appropriate in this form without applicable substantive modifications for transactions with different characteristics):

- (a) The Supplier is a foreign manufacturer.
- (b) The Distributor is a domestic Chinese legal person with import-export trade and distribution authority (so no separate import-export company is required to be a party hereto).
- (c) This is a buy-sell distribution arrangement under which Distributor purchases and takes title to the Product and then resells the Products to end customers or second-tier distributors (if permitted) without adding value to the Products. (Thus, this is not a sales agency, franchise, component supply, value-added reseller, systems integration or other similar arrangement.)
- (d) The Products do not include software.
- (e) The Products require no installation.
- (f) It is assumed that the Distributor can and will provide repair services.
- (g) The Supplier is to provide Standard Conditions of Sale (Annex 2).
- (h) The user is acting for the Supplier (and thus this template is drafted in a manner favorable to the Supplier).

2.2 Specific Drafting Notes

Where the provisions of the distribution agreement are self-explanatory, no supplemental comments are provided below. References to section numbers are to the relevant Article numbers of the Distribution Contract.

Article Specific Drafting Notes

1 The definitions set out in Schedule A can be moved to this Article 1 if the Parties so agree.

18.2 Two alternative arbitration provisions are presented in this template for consideration, one for onshore CIETAC Rules arbitration, one for offshore SIAC Rules arbitration in Singapore. There are many other possibilities for international arbitration, such as ICC Singapore, Hong Kong HKIAC and so forth, depending on what is acceptable to the parties in question. CIETAC arbitration typically is not preferred by foreign investors for resolution of non-trade disputes, but is routinely proposed by Chinese parties as their preferred choice of arbitration venue. The suggested CIETAC arbitration provisions set out in the template are designed to ameliorate many of the more significant concerns most foreign parties have in relation to CIETAC arbitration in this context. You would still need to consider whether the enforcement of any CIETAC award could be refused on the grounds set out in Article 260 of the Civil Procedure Law.

Neutral third-country arbitration is permitted and is the preferred option in most major cross-border contracts. Such international arbitration awards if made in a New York Convention member state are in principle enforceable in China under the New York Convention (to which China is a party), subject to matters on which China expressed a reservation when joining the New York Convention and/or grounds on which enforcement can be denied under the New York Convention itself, notably where enforcement would go against public policy. In addition to third-country arbitration in Singapore, international arbitration in Hong Kong (enforceable in China under separate rules) and (historically) Stockholm have been common for Sino-foreign joint venture contracts, and apart from CIETAC Rules arbitration, most arbitration provisions usually contemplate Singapore, Stockholm and Hong Kong as the place of arbitration. The appropriate arbitration provisions for other arbitration venues should be determined in accordance with the applicable laws and rules. Where cost is a major factor or the contract value is relatively small, or where multiple parties are involved, consider appointing only one arbitrator and revising the clause accordingly (care needs to be taken as having one arbitrator as opposed to three raises its own issues). Note that in order to satisfy the Chinese legal requirements for an arbitration agreement under the PRC Arbitration Law, three elements must be present:

- (a) an intention to arbitrate (problems may arise in practice where you have split clauses which allow either court based proceedings or arbitration proceedings);
- (b) the matters subject to arbitration; and
- (c) a named arbitration institution (China does not generally recognise ad hoc, non-institutional arbitrations).

19.4 This clause is applicable only if this template is intended to be used as a standard form by the Supplier.

Annex 2 The Supplier's standard conditions of sale should be inserted here following modification to conform to local law and practice.