

DISTRIBUTORSHIP AGREEMENT

THIS Distributorship Agreement is made this Day of2021

BETWEEN:

Fidson Healthcare Plc, a Company incorporated under the laws of Federal Republic of Nigeria with its head office at No 268 Ikorodu Road, Obanikoro Lagos, hereinafter referred to as “**Fidson**” (which expressions shall, where the context so admits, include its assigns and successors-in-title) on the other part.

AND

.....

(hereinafter referred to as “Distributor,” which expression shall, where the context so admits, include its assigns and successors-in-title on the other part).

1.0 Whereas

1. The Company is manufacturer and marketer of a range of pharmaceutical products listed in Appendix I herewith attached.
2. The Company engages and registers distributors for the purpose of re-distribution of the products as wholesalers.
3. The purpose of this agreement is to enable the Distributor source products directly from the company upon satisfying the various conditions hereunder provided.
4. Both the company and the Distributor shall be mutually bound by the terms of this agreement.
5. For this agreement to precede, the Distributor shall make a written application to the company to be engaged as a Distributor and the company shall reserve the right of acceptance or rejection.

2.0 General Provisions

In realization of these objectives, the parties hereby agree as follows:

1. The Distributor’s relationship to Company shall be that of an independent contractor. Nothing in this Agreement shall constitute naming the Distributor as an agent or legal representative of the company for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement does not constitute a contract of employment between Company and any individual distributor or its agents. This agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the

Distributor and the Company and the Distributor shall make no such representation to the public.

2. The Distributor shall obey the Company's guidelines with regard to the marketing and distribution of products under this agreement and not engage in activities that are not normally compatible with the company's image.
3. The Distributor is not entitled to carry out any advertisement of the products except permitted to do so.
4. The Distributor shall comply strictly with the credit policies of the company.

3.0 Distributor's Covenants

1. The Distributor shall submit a formal application to the Company to be engaged as a Distributor.
2. The Distributor shall comply with the Company's policy on minimum stock retention and volume of purchase.
3. The Distributor shall show evidence of the availability of a standard store or warehouse in which products can be kept in conformity with the storage instructions of the products.
4. Where insurance is needed, the Distributor shall procure same and show the Company evidence.
5. Ensure that the credit period allowed by the Company is strictly adhered to and in the event of default, to yield the goods to the company upon which any deposit with the Company may be set off against any outstanding debt.
- 6 The Distributor shall purchase the product from time to time upon the terms herein contained.
- 7 The Distributor shall procure for its premises operational license from the regulatory authority and the government agencies as required for the adequate storage and preservation facilities for the products and shall comply with all requirements of the relevant regulatory authorities.
8. The Distributor shall promptly notify Fidson of any change or unfolding trend in the market terrain affecting the products in order to map out strategies for taking maximum advantage of such change or trend.

4.0 Company's Covenants

The Company hereby covenants as follows:

1. The company shall, upon receiving payment from the Distributor supply in the right quantity, quality and dimension the goods ordered.
2. To ensure that the goods supplied to the Distributor are free from any encumbrance whether relating to title or regulatory compliance that may render the product(s) not to be merchantable.
3. The Company shall strive to make products available for purchase by the Distributor at all times.
4. The Company shall from time to time promptly communicate to the Distributor any change in the prices.
- 6 The Company shall from time to time as it may deem fit provide the Distributor with relevant marketing and promotional support for the Products.
5. The company shall procure valid goods-in-transit insurance policy to cover the risk of moving the products from the Company to the Distributor.

5.0 Liability and Insurance

5.1. The Company shall have no other financial liabilities whatsoever in respect of the products supplied in good condition except it is proven beyond reasonable doubt that any such liability can arise in tort for manufacturing defect.

5.2. Any liability arising from wrongful use of the product or arising from wrong storage by the Distributor shall be borne exclusively by the Distributor.

6.0. Termination

- 6.1. This Agreement may be terminated without prejudice to any right or remedy either party may have against the other for breach or non-performance of this Agreement if any of the following circumstances arise:
- 6.2 Either party commits a serious or grave breach of this Agreement or persistent breaches of this Agreement including, but not limited to, non-performance, default or neglect of that party's duties under this Agreement and such breach remains un-remedied for ten (10) days after notice of such breach has been given by the non-defaulting party.
- 6.3 Where the conduct of the Distributor is likely to have a serious or detrimental effect on the business, products and affairs of the Company.

7. General

- 7.1. No addition to or modification of any clause in this Agreement shall be binding on the parties unless made in writing and signed by the signatories to this Agreement or their duly authorized representatives.
- 7.2. This Agreement sets out the entire agreement and understanding of the parties and is in substitution of any previous written or oral agreement between the parties.
- 7.3. All parties hereby covenant that they have the full capacity and authorization necessary to enable them execute this agreement.
- 7.4. Any notice given by either of the parties shall be served on the other party by personal delivery, pre-paid recorded delivery, first class post, telex or facsimile transmission to the receiving party's address set out in this Agreement or such subsequent addresses as may be notified by the parties to each other.
- 7.5. Any such notice shall be deemed to be effectively served as follows:
 - 5.1. In the case of service by pre-paid recorded delivery or first class post forty-eight hours after posting
 - 5.2. In the case of service by telex or facsimile transmission on the next working day.
- 7.6. The Schedules to this Agreement constitute an integral part thereof.
- 7.7. Failure by either party to enforce any accrued rights under this Agreement is not to be taken as or deemed to be a waiver of those rights unless the waiving party acknowledges the waiver in writing.
- 7.8. No addition to or modification of any clause in this Agreement shall be binding on the parties unless made in writing and signed by the signatories to this Agreement or their duly authorized representative.

8.0 DELIVERY:

- 8.1 The Distributor may take delivery of every consignment of the products from Fidson's warehouse within the region or at Fidson's factory or have the products delivered to it at its warehouse or other designated place.
- 8.2 Notwithstanding the mode of delivery adopted, delivery shall be complete upon placement of the products in the Distributor's warehouse (or other designated place) or vehicle and signing by the Distributor or its authorized agent of Fidson's Delivery Note.

8.3 Where the Products are sent to the Distributor through a public service or other company such as courier Service Company or the parcel delivery service of any transportation company, an officer of such company shall sign the Delivery Note and such signature shall be *prima facie* evidence of delivery to the Distributor of the relevant consignment of products.

9.0 ACCEPTANCE:

9.1 Every consignment of the Products delivered under this Agreement shall be deemed to have been accepted upon placement of such consignment in the Key Distributor's warehouse (or other designated place) or vehicle and the signing by the Key Distributor or its authorized agent of Fidson's Delivery Note; and where sub-paragraph 7.3 is applicable, upon signing by an officer of such company of the Delivery Note.

10.0 FORCE MAJEURE

Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstances beyond its reasonable control, including but not limited to Acts of God, war, civil disorder or industrial disputes. If such delay or failure continues for a period of at least Twenty –one (21) days the party not subject to the force majeure shall be entitled to terminate this Agreement by written notice to the other.

11.0 ARBITRATION

All disputes, questions and differences arising between the parties in connection with this agreement shall first be submitted to arbitration by a single arbitrator jointly appointed by the parties. Should the parties fail to agree on an arbitrator, one shall be appointed for them by the President of the Chartered Institute of Arbitrators, Nigeria. The arbitration shall be held in Lagos, Nigeria, in accordance with the provisions of the Arbitration and Conciliation Act, 1990. Any part not satisfied with any arbitration award may further pursue its remedies in the appropriate law court; provided that such action shall be commenced within ninety (90) days of the arbitration award.

The official cost of any arbitration shall be borne equally by the parties, while each party shall bear its cost legal representation at such arbitration.

12.0 IT IS HEREBY DECLARED that the foregoing paragraphs, sub paragraphs and clauses of this Agreement shall be read and construed independently of each other. Should any part of this Agreement or its paragraphs, sub paragraphs or clauses be found invalid it shall not affect the remaining paragraphs, sub paragraphs and clauses.

13.0 This Agreement shall be construed in accordance with the Laws of the Federal Republic of Nigeria Courts.

14.0 REDISTRIBUTION

No staff, agent, or any officer of Fidson is permitted to be engaged by any distributor in any form of re-distribution arrangement *except* by the written permission of the Company.

15.0 DATA PRIVACY/PROTECTION.

In the event that information that relates to an identified or identifiable individual (“Personal Data”) is shared by one Party to the other Party during the term and for the purpose of this Agreement, both parties agree to comply with the Nigerian Data Protection Regulation 2019 and all applicable laws, legislation, or regulation that impose restrictions, methods and obligations regarding use and processing of personal data. Both parties agree to ensure that appropriate consents and notices are in place; to enable lawful transfer of personal data to the other party.

IN WITNESS of which the parties have executed this Agreement the day, month and year first above written.

THE COMMON SEAL of the within named

FIDSON HEALTHCARE PLC was

Hereunto affixed in the presence of

.....

DIRECTOR

.....

SECRETARY

THE COMMON SEAL OF THE WITHIN NAMED

..... was

Hereunto affixed in the presence of

.....

DIRECTOR

.....

SECRETARY