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Cross-border transactions:

A drafting guide for international sales contracts

Project of the IBA International Commerce and Distribution Committee

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ISC Commentary Research Guide

Table of Contents

About this Guide

This Field Guide has been made possible only through the generous contributions of a number of dedicated members of the International Commerce and Distribution Committee (ICDC), previously known (until 2019) as the International Sales and Franchising Committees of the International Bar Association. The first edition of this Field Guide (then called the 'Checklist') was published in 2002, with an update in 2003. The Checklist was again updated, expanded and renamed the 'Field Guide' in 2011, and further expanded in 2013 and 2015. The current version of the Field Guide (2026) (the 'Guide') was updated through the Special Projects subcommittee of ICDC, which set out to bring it in line with recent legal and industry developments across several jurisdictions.

The Guide is still a checklist, designed primarily for discussion purposes among the IBA membership. It is intended to be a living document, evolving to integrate various perspectives, experiences and commentary from IBA members from different legal systems and jurisdictions. The 2026 version of the Guide was presented and discussed by the current contributors at a special panel at the specialist conference held in Munich on 16 April 2026.

Please note that the contents of the Field Guide are meant strictly for informational and discussion purposes only and do not constitute legal advice or an opinion on any subject.

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I. Are you/your clients ready to export?

While exporting (for the purposes of this Guide, this includes all forms of relationships described below) holds substantial economic promise for most companies, international counsel should carefully consider if clients are ready to take on the challenges and demands associated with international transactions for the sale of goods or services. Exporting may not be an option for clients that cannot carry on their domestic business profitably and are limited to utilising their already stretched financial and human resource capabilities. This section and related links provide you with informative tools that may assist in identifying readiness to export or engage in international sales transactions; assessing the competitiveness of products or services in the new market; defining clear objectives in an export plan; and helping identify legal resources and help that will be required to support commercial objectives.

A. Preparing to export goods, services or intellectual property

Several government agencies and other entities have published useful overviews or checklists of the issues to be considered in preparing to export. These include:

- **www.tradecommissioner.gc.ca/en/market-industry-info/export-learning.html**: This website of the Government of Canada's Trade Commissioner Service includes a step-by-step guide to exporting and an export checklist on various major export considerations.
- **www.sba.gov/business-guide/grow-your-business/export-products**: United States Small Business Administration (SBA) resources.
- **www.export.org.uk/**: This website provides overseas market information; access to trade finance advice; downloadable international trade education and training material; online travel advice services; assistance with technical and documentation problems; and the United Kingdom's most comprehensive database of international trade information and tested global links.
- **www.gov.uk/export-goods**: This useful website is maintained by the UK Government and specifically deals with assisting businesses to export. Prospective exporters can use the website to search the country for which more information is desired, or by the business sector in which the exporter is involved, which are all found under the general branch of exporting.
- **https://exporthelp.co.za/steps/**: This website includes a step-by-step guide to the export process.
- **www.intracen.org/resources/tools/export-potential-map**: This website provides support and training to enterprises. It includes an Export Potential Map that evaluates a country's export performance, which can be used to identify attractive target markets for exporters.

Other country-specific information is available to varying degrees. The following websites, for example, offer helpful information links on a number of countries:

www.edc.ca/en/country-info.html

Australian exporters | Austrade

International Law – FindLaw and **How to Export | Exporting Basics Videos | Export.gov | export.gov**

In South Africa, the Department of Trade and Industry has a website that provides a potential exporter with assistance on a wide range of matters: **www.thedtic.gov.za/sectors-and-services-2/1-4-2-trade-and-export/export-development-and-promotion/**.

B. Suggestions to businesspersons on a visit to the export market

Before any relationship with a foreign representative is entered into or any transaction takes place, companies considering export sales for the first time or to a new jurisdiction should be encouraged to visit the subject country or countries to assess the markets and local contacts. Some care should be devoted to the object of the visit to the export market, planning the visit, preparing checklists and materials (samples, sales and marketing, promotional, multilingual cards and other material), cultural aspects, negotiation styles, requisite documentation and travel requirements. These and other issues are surveyed at **https://legacy.export.gov/article?id=Methods-of-Market-Research**.

Before visiting the country, the company planning to export may want to consider compiling a briefing book or similar resource for all its personnel surveying the planned country or region, as well as information on the available markets in that country or region. There are several resources available online, including the following:

- **www.intracen.org/**: The International Trade Centre's Trade Information Index provides links to national trade support institutions and country-specific business information.

- **https://legacy.export.gov/article?id=Getting-Started**: This provides a step-by-step approach to market research by the US Government.

- **www.selectusasummit.us/Home**: The SelectUSA Investment Summit facilitates connections between investors, companies, economic development organisations and industry experts to promote business investment. Information about the European Union and its Member States can be found on several websites, including:

  - **https://trade.ec.europa.eu/access-to-markets/en/home**: The EU Market Access Database.

  - **www.esma.europa.eu/data-reporting/emir-reporting**: The European Market Infrastructure Regulation (EMIR) database.

  - **www.eurofound.europa.eu/en/publications/all/european-employment-and-industrial-relations-glossary-luxembourg**: The online version of the European Employment and Industrial Relations Glossaries explains the national industrial relations systems of the EU Member States through their terminology.

This includes important entries such as 'agent' and 'bankruptcy' terms, which are vital for understanding and penetrating EU markets.

- **https://abh-ace.be/en**: This is the website of the Belgian Foreign Trade Board.
- **www.gtai.de/en/invest/business-location-germany/market-germany-europe-s-economic-hub**: This contains general information about Germany and its markets and is published by the German embassy in Washington, DC.
- **www.german-business-portal.info/en**: The German Business Portal provides a method for locating trade contacts and business partners in Germany, as well as a summary of the tools, services and information that various government and semi-independent players in Germany provide.
- **www.amcham.de/**: The website of the American Chamber of Commerce in Germany offers a wealth of information, including, in its Info Center, market research and information on forming a company in Germany.
- **https://bccg.de/en/**: The informative website of the British Chamber of Commerce in Germany eV includes details on the regional committees and publications on German–British trade aspects and specific market perspectives.

Information about exporting to Asian markets can also be found on several websites, including:

- **www.jetro.go.jp/en/**: The Japan External Trade Organization (JETRO) website provides guidebooks for export to Japan.
- **www.jetro.go.jp/en/j-bridge.html**: The website also contains a free online business partner database that allows companies and individuals around the world to search and browse through business proposals and reach out to potential Japanese business partners.
- **http://english.customs.gov.cn/**: This China Customs government website provides guides on the clearance of export goods, export statistics, and information on policy and regulation.
- **www.china-tax.net/app/search?q=refund**: This contains an introduction to VAT export refund rules in China. The information is a useful guide to the refunding of VAT for export goods from China.
- **https://policy.trade.ec.europa.eu/help-exporters-and-importers_en**: The Export Helpdesk includes full information about exporting to Europe, requirements, tariffs and more.

Information about exporting from and to markets in the Americas can be found on the following websites:

- **www.cfr.org/backgrounders/mercosur-south-americas-fractious-trade-bloc**: This contains general information about the Southern Common Market (Mercosur).

- **www.sice.oas.org/agreements_e.asp**: This website provides a full legal framework for trading in the Americas.

C. *Financing the export programme*

1. North America: Canada

Several governments offer assistance to companies desiring to enter the export market. For example, the Step-by-Step Guide to Exporting from Canada's Trade Commissioner Service includes a list of several sources of financial aid available to Canadian exporters: **www.tradecommissioner.gc.ca/en/market-industry-info/export-learning/step-8-financing-requirements.html**.

One such programme is the Global Opportunities for Associations (GOA), which offers assistance to Canadian companies who are seeking to undertake new or expanded international business development activities, in strategic markets and sectors, for the benefit of an entire industry.

Annual non-repayable contributions range from a minimum of CA$20,000 to a maximum of CA$250,000 over a one-year period from 1 April to 31 March. It also provides matching funds of up to 50 per cent of eligible expenses.

Export Development Canada is the Canadian government agency providing export credits and guarantees: **www.edc.ca/**.

2. North America: US

US companies get assistance from the US SBA, whose programmes and services are described at **www.sba.gov/business-guide/grow-your-business/export-products#export-finance-programs**.

Because most US banks view loans for exporters as risky, the SBAs finance programme provides lenders with up to a 90 per cent guaranty on export loans. The SBA also offers business consulting and low-cost training services through the Small Business Development Centers.

3. Europe

Other comparable web sources from other countries include the following:

- **www.bmf.gv.at/en.html**: The Austrian Federal Ministry of Finance.
- **www.german-business-portal.info/en**: The German Business Portal.
- **www.eda.admin.ch/de/**: The Economic and Financial Affairs Division of the Swiss Federal Department of Foreign Affairs.

4. Latin America: export promotion and trade planning

- **https://apexbrasil.com.br/en**: APEX Brazil: trade and investment promotion.
- **www.prochile.gob.cl/en**: ProChile.
- **http://procolombia.co/en**: ProColombia.
- **www.gob.pe/promperu**: PromPerú.
- **www.sice.oas.org/**: Organization of American States (OAS)/Sistema de Información sobre Comercio Exterior (SICE) – Latin America ('LATAM') trade agreements database.
- **www.bndes.gov.br/wps/portal/site/home**: BNDES-Exim (Brazil) – export credit, often with local-content requirements.

II. Substantive law of sales

A. International instruments and principles

Multiple legal systems are potentially applicable to sales contracts when international trade is involved. Efforts have therefore been made at the worldwide or regional levels to harmonise private international law and substantive sales law with a view to easing the difficulties inherent in such encounters between multiple legal systems.

Several organisations, such as The Hague Conference on Private International Law, the International Institute for the Unification of Private Law (UNIDROIT, an independent intergovernmental organisation), the United Nations Commission on International Trade Law (UNCITRAL) and more recently, the EU or the Organization for the Harmonization of Business Law in Africa (Organisation pour l'Harmonisation du Droit des Affaires en Afrique or OHADA) have sought to promote instruments to that end.

In Latin America, the OAS has pursued the regional harmonisation of private international law through the Inter-American Specialized Conferences on Private International Law ('CIDIP' I–VII). While CIDIP has not produced a uniform sales law, its conventions on conflict of laws, arbitration and secured transactions are relevant to cross-border sales structuring. See **www.oas.org/en/sla/dil/private_international_law_conferences.asp**.

The Inter-American Convention on the Law Applicable to International Contracts (Mexico City, 1994) allows parties broad freedom to choose the applicable law and, in the absence of a choice, directs the court or tribunal to apply the law of the state with the closest connection. The Convention has received limited ratifications (Mexico and Venezuela) and is not widely applied in practice, but it reflects regional private international law principles relevant to LATAM transactions. The text is available at **https://oas.org/juridico/english/treaties/b-56.html**.

The Uniform Commercial Code also constitutes an effort towards harmonisation of the law of sales and other commercial transactions in all 50 states within the US.

Below is a brief overview of some relevant major instruments, either already in existence or in the making, with an indication of online references where additional information can be found.

1. The UN convention on contracts for the international sale of goods

In an effort to create some uniformity in the rules relating to contracts for the sale of goods, UNCITRAL drafted the Convention on Contracts for the International Sale of Goods ('CISG'), which was signed in Vienna in 1980. As of June 2025, 97 states have adopted the CISG, including all major trading nations in the Americas (Argentina, Brazil, Canada, Chile, Colombia, Mexico, the US and others), Europe and Asia Pacific.

The current list of Contracting States and their reservations can be verified at the UNCITRAL CISG status page: **https://uncitral.un.org/en/texts/salegoods/conventions/sale_of_goods/cisg/status**. A significant exception remains the UK.

The CISG applies automatically (subject to exclusion) to any contract for the commercial sale of goods entered into by parties whose places of business (regardless of the contracting parties' nationalities) are in different countries, each of which has ratified the CISG. The CISG thus displaces the national commercial contract law, which would otherwise apply to the transaction, with regard to the formation of the contract and the rights and obligations of the buyer and seller under the contract.

Notwithstanding the automatic application of the CISG, the parties may exclude the CISG and choose the law of a particular state in their agreement, or derogate from the effect of any of the CISG's provisions. Consensus appears to be developing that exclusion of the CISG must be done expressly. Under this view, it is not sufficient to state 'This agreement shall be governed by the laws of Country X' if that country has ratified the CISG because the CISG will be applied as an integral part of the laws of the designated country. One view is that the express exclusion of the CISG can be accomplished through clauses such as 'This agreement shall be governed by the laws of Country X, not including the Convention on Contracts for the International Sale of Goods' or 'This agreement shall not be governed by the Convention on Contracts for the International Sale of Goods, but instead shall be governed by the laws of Country X'.

This principle is particularly important for contracts governed by Brazilian law. Since Brazil's CISG accession in 2014, a choice-of-law clause selecting 'the laws of Brazil' incorporates the CISG for international sales of goods within its scope. To apply the Brazilian Civil Code instead, the parties must expressly exclude the CISG (eg, 'This contract shall be governed by the laws of Brazil, excluding the UN Convention on Contracts for the International Sale of Goods'). The same logic applies to other LATAM Contracting States such as Argentina, Chile, Colombia and Mexico.

The CISG applies to both oral and written contracts for the commercial sale of goods and does not require that contracts be in writing, although some countries, including Denmark, Finland, Iceland, Norway and Sweden, have preserved the requirement of written formalities found in their own national commercial laws, as a derogation from the terms of the convention. Those same countries have also declared that the CISG is inapplicable to contracts entered into by parties whose respective places of businesses are in one of those five countries.

The CISG applies only to contracts for the sale of goods, not contracts primarily for services. It has a limited scope and does not supplant national provisions governing the validity of the contract or the effect that the contract may have in property rights in the goods sold.

The CISG governs contracts for international sales of goods between private businesses, excluding sales to consumers and sales of services, as well as sales of certain specific types of goods. It applies to contracts for sales of goods between parties whose places of business are in different Contracting States, or when the rules of private international law lead to the application of the law of a Contracting State. (Member States are, however, allowed to opt out of that last rule and the US, China and Singapore, for instance, made use of that right when adhering to the CISG.) It may also apply by virtue of the parties' choice. Likewise, the parties are free to exclude its application.

As of 2025, CISG Contracting States in Latin America and the Caribbean include Argentina, Brazil, Chile, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador, Guyana, Honduras, Mexico, Paraguay, Peru, St Vincent and the Grenadines, and Uruguay. Counsel should verify the current list and any reservations at the UNCITRAL status page cited above, as well as consult with local counsel, naturally. Notable points are as follows:

- Brazil acceded to the CISG effective 1 April 2014, with no reservations. Pre-2014 contracts involving Brazilian parties are governed by domestic law (principally the Brazilian Civil Code, Articles 481–532).
- Local case law applying the CISG in several LATAM jurisdictions (particularly Brazil, Colombia and Argentina) is still developing. The CISG-online database (**cisg-online.org**) and the Pace/IICL CISG database (**iicl.law.pace.edu/cisg/cisg**) maintain searchable collections of LATAM decisions.
- Most LATAM jurisdictions are civil law systems. For matters outside the CISG scope, including validity, transfer of property in the goods and prescription/limitation periods, the applicable domestic civil code governs.

The CISG provides rules regarding, in particular: (1) the formation of the contract; (2) the obligations of the parties to the contract; (3) the passing of risk; (4) anticipatory breach of contract; (5) damages; (6) interest; and (7) exemptions from performance of the contract. Finally, while the CISG allows for freedom of the form of the contract, states may lodge a declaration requiring the written form. In turn, certain matters relating to the international sale of goods, for instance, the effect of the contract on the property in the goods sold, defects in consent, unfair contract terms and prescription, fall outside the CISG's scope.

Mandatory domestic rules in civil law jurisdictions

Many LATAM civil codes contain mandatory rules that may affect sales contracts regardless of the parties' choice of law. For example, the Brazilian Civil Code (Article 157) provides for *lesão* (*laesio enormis*/gross disparity), which allows a court to annul or adjust a contract where one party, under pressing need or inexperience, assumed an obligation manifestly disproportionate to the consideration received. Comparable provisions exist in other civil law jurisdictions in the region.

These are validity issues outside the scope of the CISG (Article 4(a)) and may be applied by domestic courts as overriding mandatory provisions.

Related instruments of interest are:

- The Convention on the Limitation Period in the International Sale of Goods: Adopted in 1974, it was further amended in 1980 in order to harmonise its text with that of the CISG, in particular, with regard to the scope of application and admissible declarations. The Convention was adopted by 30 states, out of which 23 are a party to the amended version:

  https://uncitral.un.org/en/texts/salegoods/conventions/limitation_period_international_sale_of_goods.

- UN Convention on the Use of Electronic Communications in International Contracts. Adopted in 2005 and in force since 1 March 2013, the Convention was adopted by 21 states including, subject to certain reservations, Singapore:

  https://uncitral.un.org/en/texts/ecommerce/conventions/electronic_communications/status.

The following are among the major websites devoted to the CISG and CISG issues, including the text of the CISG, the status of ratification, numerous cases (court decisions and arbitral awards) and comments relating to the application of the CISG.

- The text of the CISG, in six official languages and many unofficial translations, is available at **https://iicl.law.pace.edu/cisg/page/texts-cisg**.
- The current status of the CISG, with a list of all countries that have adopted it and any stated reservations, can be found at the UNCITRAL website: **https://uncitral.un.org/en/texts/salegoods/conventions/sale_of_goods/cisg/status**.
- A table of all Contracting States is at the Pace University website: **https://iicl.law.pace.edu/node/30143**.
- The CISG provides for uniform interpretation of its provisions, and to that end, the CLOUT international database of decisions taken under the CISG is compiled and hosted at **www.uncitral.org/clout/search.jspx**.
- The most recent CISG decisions published by UNCITRAL, and additional cases collected by legal scholars and practitioners, are available at **https://cisg-online.org/search-for-cases/uncitral-digest-on-the-cisg**.
- A good general source for all materials related to the CISG is the Institute of International Commercial Law at the Pace University School of Law and its CISG Database: **https://iicl.law.pace.edu/cisg/cisg**.
- A database of international case law, and the bibliography of the CISG and UNIDROIT Principles of International Commercial Contracts are available at **www.unilex.info/**.

- UNIDROIT's purpose is to study the needs and methods for modernising, harmonising and coordinating private and, particularly, commercial law between states and groups of states, and to formulate uniform law instruments, principles and rules to achieve those objectives. Its official website is **www.unidroit.org/**.

- The Albert H Kritzer Database was developed by the Institute of International Commercial Law and the Pace Law Library (Pace University) and contains an annotated article-by-article version of the CISG, the preparatory materials, an up-to-date bibliography with more than 8,000 citations, the full text of more than 1,000 articles and an up-to-date collection of reported case law with more than 3,000 cases, most translated into English: **https://iicl.law.pace.edu/cisg/cisg**.

- The University of Oslo website is dedicated to the provision of information on international commercial law with subsidiary interests in commerce, and (mostly open standard) internet and information technologies that may be of interest to law academics and professionals worldwide: **www.jus.uio.no/english/research/publications/**.

- The University of Basel website includes various lists of resources and book chapters, law journal articles, article-by-article commentaries and case notes on the 1980 Sales Convention. Currently, it contains 4,591 entries in 29 languages, mostly English and German, with 1,380 publications available with the full text: **https://cisg-online.org/cisg-bibliography**.

2. Uniform commercial code (UCC)

The UCC, a comprehensive code addressing most aspects of commercial law, is generally viewed as one of the most important developments in American law.

The UCC is a model code, so it does not have legal effect in any jurisdiction *unless* UCC provisions are enacted by the individual legislatures as statutes. Currently, the UCC (in whole or in part) has been enacted, with some local variations, in all 50 US states, the District of Columbia and the US Virgin Islands. Bearing in mind the potential variations introduced by the states upon adoption of the UCC, local law must still be checked when doing business in different states. However, Article 2 of the UCC, which governs the commercial sale of goods, has been adopted in substantially identical form as statutory law in all 50 states and the US Virgin Islands.

The primary sources for UCC research are:

1. the Code itself;
2. the Official Comments of the UCC Permanent Editorial Board (PEB);
3. the PEB Commentaries; and
4. judicial opinions that interpret and apply the Code, as enacted in a particular state.

- **www.law.duke.edu/lib/researchguides/ucc#related**: An overview of the primary source materials.

- **www.law.cornell.edu/ucc/**2: An overview, together with the full text of the law.

- **http://uniformlaws.org/acts.aspx**: A joint project between the Uniform Law Commissioners and the University of Pennsylvania Law School, the website is the official archival site for drafts of uniform and model acts. This website includes an index to drafts in progress for the UCC and the full text of the drafts themselves.

- **www.law.cornell.edu/uniform/ucc.html**: Cornell's Legal Information Institute has created a useful chart indicating where UCC articles are codified in each state's statutes. For many states, it provides links directly to the state statutes.

3. Germany

German private law is mainly based on federal law. The core and comprehensive statute is the German Civil Code (Buergerliches Gesetzbuch or BGB), which was introduced in 1900 and includes general provisions, such as on the formation of contacts, and specific provisions for certain types of contracts, such as on the sale of goods. Additional legislation includes the Commercial Code (Handelsgesetzbuch or HGB) and statutes on the establishment and organisation of specific types of companies (eg, Gesellschaft mit beschränkter Haftung (GmbH) and Aktiengesellschaft (AG)); these acts either supplement or take precedence over the general BGB.

Because Germany has a civil law system, the main source of law is statute law.

- **https://n-lex.europa.eu/n-lex/info/info-de/index**: This provides access to the most recent versions of nearly all German federal laws and regulations currently in force, continuously updated by the documentation office of the Federal Office of Justice. Many core statutes are also available in English.

- **https://en.justiz.de/onlinedienste/rechtsprechung/index.php**: This provides access to the sources of full-text court decisions published by the Federal Ministry of Justice and the Federal Office of Justice, as well as the federal courts and some state justice administrations. In Germany, the publication of judicial decisions is currently the subject of several legislative projects, and also of a public debate between scholars and practitioners about the application of artificial intelligence (AI).

4. Harmonisation of European sales law

The process of the harmonisation of contract law in the EU in general, and sales law in particular, is a good example to illustrate the nature of this union of independent states, and in particular, the different approaches of the European Commission and Member States when addressing the needs of internal trade and international trade. The Commission's attempts to replace the current 'minimum harmonisation' concept by a broad full harmonisation directive failed, as did the following approach of an optional instrument: the proposed Common European Sales Law

(CESL). In the meantime, technological and political developments, such as the growing demands of digital products and digital markets for a common legislative framework, paved the way to sectoral, varyingly full harmonisation. The EU attempts to meet the needs of effective consumer protection, one of the core objectives of this union of independent states. If in the area of sales law, Member States such as Germany choose to transform new EU consumer protection rules in a way that extends to business-to-business (B2B) transactions, such an extensive transformation is less an act of harmonisation and rather a move on the national legislative agenda with effects on the international trade.

From a practitioner's point of view, it is important to distinguish between the different instruments of European law. Non-technically speaking, the majority of regulations require a transformation into national law within a particular period of time, while some instruments become directly applicable. With regard to its application, harmonisation comes with a number of particular technical effects. For example, the interpretation of harmonised rules may deviate extensively from the otherwise applicable interpretation of national law.

Recent projects of EU harmonisation with possible direct or indirect effects on the drafting of international sales contracts focus on aspects such as digital and green transitions, cybersecurity and the establishment of uniform standards for emerging technologies like AI, notably the Artificial Intelligence Act (Regulation 2024/1689), the Data Act (Regulation 2023/2854), the Packaging and Packaging Waste Regulation (PPWR), the Empowering Consumers for the Green Transition (ECGT) and the Cybersecurity Act (NIS2 and Digital Omnibus).

Please see:

- **https://eur-lex.europa.eu/index.html**: where, inter alia, currently enacted and valid European Law can be found.

III. UNIDROIT Principles, principles of European law and principles of European contract law

A. The UNIDROIT Principles

A similar initiative was also launched in the 1970s by UNIDROIT, although it did not effectively take off before the 1980s. UNIDROIT, an intergovernmental organisation of a universal nature, addresses the entire world; however, it confines the scope of its project to international commercial contracts. UNIDROIT's efforts culminated in the publication of the UNIDROIT Principles of International Commercial Contracts in 1994. The first edition was amended in 2004, with subsequent amendments in 2010 and 2016.

The new edition of the UNIDROIT Principles consists of 211 articles (as opposed to the 120 articles of the 1994 edition). The 2016 edition and previous versions are available online at **www.unidroit.org/**.

B. *Principles of European law and principles of European contract law*

While the European Community institutions' first signs of interest for the harmonisation of private law as a means to achieve a single market among Member States date back only from the end of the 1980s, scholars originating from different European countries had already started investigating that road in the early 1980s. The best known works are as follows:

- The Principles of European Contract Law (PECL) prepared by the 'Lando Commission', set up in 1982 under the direction of Professor Ole Lando, is a body of rules on general contract law and, partially, on the general law of obligations. The text can be consulted at **www.researchgate.net/publication/284730355_The_Principles_Of_European_Contract_Law_Some_Choices_Made_By_The_Lando_Commission**.

- The series 'Principles of European Law' (PEL) resulted from works by the Study Group on a European Civil Code established in 1988 under the leadership of Professor Christian von Bar. It covers not only specific contracts but also tort law, some matters relating to property law, unjustified enrichment and benevolent intervention in another's affairs. The overall aim of the Study Group is to elaborate a basic set of rules for Europe. The works of that Study Group are available at **www.degruyterbrill.com/serial/pel-b/html?srsltid=AfmBOor8PIayl6zzA8Nvb_2TnrXxDEsWtEgh9xxc9gt4TeXZvw8OhAJs#volumes**.

- **https://max-eup2012.mpipriv.de/index.php/Max_Planck_Encyclopedia_of_European_Private_Law**: The first edition of the 'Max Planck Encyclopedia of European Private Law' in 2012 already comprised more than 2,000 pages and nearly 500 structured entries both in English and German. This Encyclopedia provides an overview of European private law, and addresses both aspects of comparative law and of principles and unified law. Particularly useful are references to pertinent norms, the case law of European and international courts and further reading material. The entries are grouped in alphabetical order, each including cross-references to other entries. The re-edition in the form of an online tool has been available since 2021 in English under the above link, with its counterpart in German being available at **https://hwb-eup2009.mpipriv.de/index.php/Handw%C3%B6rterbuch_des_Europ%C3%A4ischen_Privatrechts**.

C. *The Uniform Act Relating to General Commercial Law (OHADA)*

The OHADA Treaty was signed in 1993 and entered into force in 1995. Today, the OHADA Treaty is made up of 16 African states (Benin, Burkina-Faso, Cameroon, Central African Republic, Comoros, Republic of the Congo, Democratic Republic of the Congo, Ivory Coast, Gabon, Guinea, Guinea Bissau, Equatorial Guinea, Mali, Niger, Senegal, Chad and Togo). Among those states only Benin, Gabon and Guinea are also currently signatories of the CISG.

The OHADA Treaty seeks to harmonise business law within the Member States and facilitates the adoption of Uniform Acts. The Uniform Act relating to General Commercial Law was originally adopted in 1997 and entered into force in all 17 Member States on 1 January 1998. On 15 December 2010, a new instrument replaced it.

Beyond the provisions inspired by the CISG, the Uniform Act also contains rules regarding the passing of title and of risks, as well as the statute of limitations as regards commercial sales.

Further information can be found at:

- **www.ohada.org/**: The official website of the OHADA; and
- **www.ohada.com/**: A website dedicated to the OHADA business legal environment. It contains the entire OHADA regulations, most of the court precedents and doctrine.

D. Title retention/security interest law

To provide some security for the promised payment for goods shipped within a sales transaction, the seller (exporter), if not paid immediately or by a letter of credit, may seek to retain title to the goods or to obtain some other form of security interest. A security interest in such a transaction arises when the purchaser of the goods agrees that the seller/exporter (the secured party) may take the goods or other identified collateral owned by the purchaser if payment for the goods is not made as provided for under the parties' agreement. A security interest also provides the exporter with some assurance that if the purchaser should become insolvent or go bankrupt, the exporter may still be able to recover the amount owed by the purchaser by taking possession of the goods or other collateral.

In an international context, the effectiveness of the parties' arrangements in that respect and the perfection of the proposed security interest will, in general, very much be a matter to be determined pursuant to international private law.

The CISG does not address the subject of securities by way of retention of title. The material validity of a retention of title is subject to the law applicable to the respective title as such. Contractual obligations in this regard are subject to the respective applicable law, with a wide range of consequences: while, for example, German law offers a range of varying forms, with the simplest being a 'simple' retention of title clause in general terms of sale, in other jurisdictions, strict ancillary obligations, including registration with a public body, may apply.

In the US, Article 9 of the Uniform Commercial Code governs security interests in personal property such as goods **www.law.cornell.edu/ucc/9**. As noted above, the UCC has been adopted with some modifications by every state in the US. An important point to note is that a contractual clause retaining title until full payment has been received is ineffective regarding establishing a security interest under the UCC. In order to have priority against the claims of other creditors, the interest must be 'perfected', ordinarily through a filing made at the state level. Attempts at harmonisation have been initiated by UNCITRAL, where a working group is dedicated to that topic, which so far has led to two guides:

- 2010 – UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property; and
- 2007 – UNCITRAL Legislative Guide on Secured Transactions.

An additional document is as follows:

- 2001 – UN Convention on the Assignment of Receivables in International Trade.

On 15 December 2010, the OHADA also adopted the Uniform Act Organizing Securities, replacing the former 1997 edition. Among other things, it regulates the conditions for a retention of title clause to be effective and opposable against third parties.

Useful websites discussing the concept of secured transactions and related issues include those mentioned above in this chapter and:

- https://uncitral.un.org/en/working_groups/6/security_interests: UNCITRAL Working Group VI: Security interests.

E. Antitrust/unfair competition laws

Individual country or regional (eg, EU) competition laws may dictate limitations to the parties' contractual freedom as regards a number of provisions of sales-related agreements, such as distribution, franchising, agency or licensing agreements. For example, restrictions on the prices that may be charged by a reseller of products, the territory that the reseller may sell in, the other (ie, competitive) goods that the reseller may carry during the term of the parties' relationship and other similar provisions may be subject to challenge under one or more of such competition laws.

Please refer to the following resources:

- **https://competition-policy.ec.europa.eu/index_en**: The website of the European Commission's Competition Directorate;
- **www.antitrustinstitute.org/**: The website of the American Antitrust Institute, an independent non-profit organisation with a mission to increase the role of competition, ensure that competition works in the interests of consumers, and challenge abuses of concentrated economic power in the American and world economy;
- **https://unctad.org/**: The website of the UN Conference on Trade Development and in particular its sub-site dedicated to competition law and policy; and
- **www.apeccp.org.tw/index.do**: The Competition Policy and Law Database of the Asia-Pacific Economic Cooperation (APEC)'s website.

IV. Currency and payment issues

Methods of financing exports include open account, cash payments, documentary credits and advance payment. Contracts generally provide mechanisms to ensure orderly payment and transfer of title, including any requirements of financing entities. Concerns in structuring payment transfers include: compliance with applicable laws and regulations on foreign exchange (FX) controls, bribery, corruption and money laundering; sanctions screening obligations imposed on financial intermediaries; the availability and cost of correspondent banking channels; and the potential impact of currency inconvertibility or transfer restrictions on the seller's ability to receive payment.

In jurisdictions with active FX control regimes, including several recent developments on this in Latin America, these concerns may be as commercially significant as the underlying price terms.

A. Currency for payment

Typically, the parties to an export transaction specify the currency for the payment of invoices for the goods or services delivered by the exporting company. See section 6.3 of the specimen document in section XII below.

The choice of currency is not merely a commercial preference. In several jurisdictions, FX controls, mandatory conversion requirements, or restrictions on currency indexation may constrain the parties' options or create additional costs and risks. Counsel should consider at a minimum:

- whether the buyer's jurisdiction imposes FX controls that may delay or prevent payment in the agreed currency;
- whether cross-border payments must be channelled through a regulated FX market or registered with the central bank;
- whether taxes or levies apply to FX transactions;
- whether domestic law restricts the enforceability of foreign-currency obligations or their indexation to FX rates; and
- whether the contract should include protective mechanisms such as currency adjustment clauses, hardship provisions, or *force majeure* triggers linked to currency inconvertibility or transfer restrictions.

1. Foreign exchange controls: Latin America

LATAM jurisdictions present some of the most significant FX control regimes encountered in international trade. Counsel structuring cross-border sales involving LATAM counterparties should verify the applicable FX regulatory framework. Key features vary by jurisdiction, but commonly include mandatory channelling of cross-border payments through authorised intermediaries, central bank registration requirements and variable taxes or levies on FX transactions.

Brazil

All cross-border payments must be channelled through the formal FX market (*mercado de câmbio*). Brazil enacted a new FX framework in Lei 14.286/2021, regulated by BCB Resolution 277/2022, effective since 30 December 2022. The new framework modernised decades-old regulations and introduced greater flexibility (including limited foreign-currency account holding), while maintaining the principle that FX transactions must be carried out through authorised institutions. *Imposto sobre operações financeiras* (IOF) may apply to FX transactions at variable rates, depending on the transaction type; counsel should verify the current applicable rate. Contracts denominated in foreign currency are enforceable, but payment must be converted to Brazilian real (BRL) at the exchange rate on the date of payment (Article 318 of the Civil Code; Decree-Law 857/1969). Indexation of domestic obligations to FX rates is restricted by statute.

Other LATAM jurisdictions

As of 14 April 2025, the Argentine Government has lifted most FX controls (*cepo cambiario*). Colombia requires cross-border payments through authorised intermediaries and registration of foreign debt with the Banco de la República. Counsel should address the risk of an inability to remit payment contractually (eg, through hardship, force majeure or alternative payment mechanism clauses) as part of cross-border considerations in international commerce.

B. Payment mechanisms

Having agreed to the currency of the transaction, it is necessary to consider the method and timing of payment. A very common set of practices used in contracts, letters of credit and shipping documents for international transactions is set forth in the Incoterms 2020, published by the International Chamber of Commerce (ICC), which define the responsibilities of buyers and sellers for delivery of goods, covering various modalities of transport and providing uniform terms to describe the allocation of costs and risks.

Incoterms are widely used in the movement of goods and should be carefully considered for consistency with other documentation and contractual allocations of risk between parties. Incoterms are periodically revised. The latest version of the rules are Incoterms® 2020, which took effect on 1 January 2020 and remain current as of the time of the internal publication of this Guide in 2026. These 11 rules define responsibilities for delivery, risk and costs between buyers and sellers, featuring key updates, like the replacement of DAT ('Delivered at Terminal') with DPU ('Delivered at Place Unloaded') to allow for delivery at any location, not just a terminal.

Standard Incoterms include EXW (Ex Works); FCA (Free Carrier); CPT (Carriage Paid to); CIP (Carriage and Insurance Paid to); DPU (Delivered at Place Unloaded); DAP (Delivered at Place); DDP (Delivered Duty Paid); FAS (Free Alongside Ship); FOB (Free on Board); CFR (Cost and Freight); and CIF (Cost, Insurance and Freight): **https://iccwbo.org/business-solutions/incoterms-rules/incoterms-2020/**.

Another useful publication is the Uniform Customs and Practices for Documentary Credits (UCP), which sets out rules for issuance and use of letters of credit in international trade transactions. The ICC publishes the UCP 600 and last updated it in April 2010: **https://iccwbo.org/news-publications/policies-reports/set-of-guidance-papers-on-recommended-principles-and-usages-around-ucp-600/**.

In addition, the ICC has published rules for use of letters of credit in internet transactions, the eUCP version 2.1, last updated on 29 June 2023: **https://iccwbo.org/news-publications/policies-reports/eucp-version-2-1-icc-uniform-customs-and-practice-for-documentary-credits/**.

UNCITRAL Conventions intended to provide uniform international payments standards include:

- the UN Convention on Independent Guarantees and Stand-by Letters of Credit – 1995 – entered into force on 1 January 2000, to provide standard principles for guarantees and letters of credit: **https://uncitral.un.org/en/texts/payments/conventions/independent_guarantees**;
- the UN Convention on International Bills of Exchange and International Promissory Notes, which applies where the negotiable instrument provides it is subject to the UNCITRAL Convention: **https://uncitral.un.org/en/texts/payments/conventions/bills_of_exchange**; and
- the UNCITRAL Model Law on International Credit Transfers – 1992 covers the obligations of senders, originating banks, receiving banks and liabilities for errors in international payment transfers: **https://uncitral.un.org/en/texts/payments/modellaw/credit_transfers**.

A general guide to trade financing methods is published by the US Department of Commerce: **www.trade.gov/report/trade-finance-guide**.

C. Export finance and promotion

In addition to the resources described in section B above, several countries offer services and financing for exporters.

- Export Development Canada provides exporters with financing, insurance and bonding services, as well as foreign market expertise. It also provides export financing and indirect loans to buyers of Canadian capital goods and services: **www.edc.ca/**.
- The Export–Import Bank of the United States ('Ex-Im Bank') is an independent US Government agency that helps to finance the overseas sales of US goods and services. It provides guarantees of working capital loans for US exporters, guarantees the repayment of loans or makes loans to foreign purchasers of US goods and services. Ex-Im Bank also provides credit insurance that protects US exporters against the risks of non-payment by foreign buyers for political or commercial reasons. Ex-Im Bank does not compete with commercial lenders, but assumes the risks they cannot accept. It must always conclude that there is reasonable assurance of repayment on every transaction financed: **www.exim.gov/**.
- The International Trade Centre is an organisation of the UN and the World Trade Organization (WTO) focused on providing technical assistance and advice to less-developed nations in connection with international trade opportunities: **www.intracen.org/**.

D. Anti-bribery and corruption laws

Led by the Organisation for Economic Co-operation and Development (OECD), several countries have adopted laws and regulations dealing with the issues of bribery and corruption in international business transactions. The website of Transparency International (TI), the global coalition against corruption, may be found at **www.transparency.org/en/**.

Among other things, this website includes TI's annual Corruption Perceptions Index: **www.transparency.org/en/publications/corruption-perceptions-index-2025**.

The OECD Convention and Anti-Corruption Division are described at the following website:

- **www.oecd.org/**: Country reports on enforcement of the Anti-Bribery Convention.

1. The US Foreign Corrupt Practices Act (FCPA)

The US FCPA seeks to prevent the bribery of foreign officials by representatives of US companies operating internationally. Provisions may apply to many non-US entities that cause, directly or through agents, an act in furtherance of a corrupt payment to take place within the territory of the US. Websites devoted to the FCPA and its interpretation and enforcement include the following:

- **www.justice.gov/criminal/criminal-fraud/foreign-corrupt-practices-act**: Department of Justice's FCPA text, regulations, enforcement actions, international agreements and lay person's guide;

- **https://az.commerce.gov/os/ogc/transparency-and-anti-bribery-initiatives.html**: Department of Commerce's Trade Compliance Center; and

- **https://2021-2025.state.gov/macroeconomic-affairs/combating-bribery-of-foreign-public-officials/**: Department of State Bureau of Energy, Economic and Business Affairs.

2. Canada's Corruption of Foreign Public Officials Act 1998 (CFPOA)

CFPOA makes it a criminal offence in Canada for persons or companies to bribe a foreign public official to obtain or retain an advantage in the course of business. In 2013, the CFPOA was amended to increase the maximum sentence of imprisonment applicable to the offence of bribing a foreign public official from five years to 14 years. The amendments also eliminated the exception for the facilitation of payments (payments made to foreign public officials to secure or expedite the performance of acts of a routine nature that are within the scope of the official's duties). The following are useful links on the CFPOA and its enforcement:

- **https://laws-lois.justice.gc.ca/eng/acts/c-45.2/index.html**: Corruption of Foreign Public Officials Act 1998, Department of Justice, Canada; and

- **https://open.canada.ca/data/en/info/d07cfdc0-43c9-4f93-9ab0-fa881c62bbfb**: Minister of Foreign Affairs' Annual Report to Parliament pursuant to the CFPOA.

E. UK Bribery Act 2010

The UK Bribery Act 2010 replaced the offence of common law bribery and the statutory offence of corruption by creating four new distinct criminal offences: bribing another, being bribed, bribing a foreign official and (for commercial organisations) failing to prevent bribery. The scope is very broad, applying to commercial entities that carry on business or part of their business in the UK. The primary enforcement agency is the Serious Fraud Office, whose website includes many useful links, as does that of the Ministry of Justice:

- **www.gov.uk/government/organisations/serious-fraud-office**
- **www.gov.uk/government/publications/bribery-act-2010-guidance**
- **http://thebriberyact.com/**

F. Other similar enactments

- **www.bmz.de/en/issues/corruption**: Germany, Federal Ministry for Economic Cooperation and Development;
- **www.icac.org.hk/en/home/index.html**: Hong Kong Independent Commission against Corruption Ordinance; and
- **www.acrc.go.kr/en/**: Republic of Korea Anti-Corruption and Civil Rights Commission.

1. Latin America: anti-corruption legislation

LATAM jurisdictions have enacted comprehensive anti-corruption legislation, often prompted by OECD Anti-Bribery Convention obligations, the Inter-American Convention Against Corruption (OAS, 1996) and major domestic enforcement initiatives. Counsel advising on international sales involving LATAM parties or government end-users should verify the applicable framework in each relevant jurisdiction.

Brazil

Brazil's Clean Company Act (Lei 12.846/2013) imposes strict (no-fault) administrative and civil liability on legal entities for corrupt acts committed against domestic or foreign public administrations. Intent is not required for corporate liability. Sanctions include fines of 0.1 per cent to 20 per cent of gross revenue, disgorgement, publication of the decision and potential debarment. The existence of a compliance programme (*programa de integridade*) is a mitigating factor; evaluation criteria are set out in Decree 11.129/2022. Leniency agreements (*acordos de leniência*) may be negotiated with the Controladoria-Geral da União (CGU). The Federal Prosecution Service (Ministério Público Federal or MPF) may conduct parallel criminal investigations, creating a dual-track. The text for Lei 12.846/2013 is available at **www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/l12846.htm**.

Other LATAM jurisdictions

Mexico's General Law of Administrative Responsibilities (2016) establishes corporate liability for corruption. Chile, Colombia, Peru and Argentina have enacted foreign-bribery legislation implementing their OECD Convention obligations. Counsel should verify applicable legislation in each jurisdiction. Inter-American Convention Against Corruption (OAS, 1996): the first international anti-corruption treaty; ratified by virtually all OAS Member States. The text is available at **www.oas.org/en/sla/dil/inter_american_treaties_B-58_against_Corruption.asp**.

Extraterritorial reach note: LATAM is a high-enforcement region for the FCPA and UK Bribery Act. US and UK investigations frequently target the LATAM operations of multinational companies, particularly in energy, infrastructure, healthcare and government procurement.

G. *Money laundering*

1. International AML/CFT standards

The Financial Action Task Force (FATF) sets the global standard for anti-money laundering (AML) and countering the financing of terrorism (CFT). FATF conducts mutual evaluations and maintains lists of jurisdictions under increased monitoring ('grey list') and subject to a call for action ('black list'), which directly affect correspondent banking relationships and cross-border payment flows: www.fatf-gafi.org/en/topics/fatf-recommendations.html.

2. Europe

Several countries and international institutions have developed money laundering laws and regulations. Money laundering is defined in Chapter 1, Article 1.2 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing:

> '(a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
>
> the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
>
> the acquisition, possession or use of property knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
>
> participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points'.

Several AML directives (AMLD) followed the development of robust rules and principles extending to a growing circle of addressees, notably AMLD2 (inter alia, non-banking institutions), AMLD3 (customer due diligence following 9/11), AMLD4 (risk-based approach, politically exposed persons (PEPs) and beneficial ownership), AMLD5 (crypto currencies/virtual asset service providers) and recently AMLD6 (predicate offences, personal liability and self-laundering; transformation into national law by 10 July 2027).

The new European Anti-Money Laundering Authority (AMLA) has operated out of Frankfurt, Germany since 1 July 2025.

3. US

The most publicised addition to US money laundering laws is the 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001' (the 'Patriot Act'), adopted in the wake of the terrorist attacks on the US on 11 September 2001. However, many other US laws can apply to financial transactions, of which a comprehensive catalogue is found at:

- **www.justice.gov/resources**: The Patriot Act made significant changes to previously existing money laundering and bank secrecy laws in order to assist law enforcement authorities in fighting terrorism. Among other things, both banks and (broadly defined) non-bank financial institutions must establish procedures and controls to prevent money laundering and to report unusual activity to the US Government.

4. UK

In the UK, the Financial Conduct Authority (FCA) is an independent non-governmental body, given statutory powers by the Financial Services and Markets Act 2000. The FCA has a statutory objective to reduce the extent to which it is possible for a firm to be used for a purpose connected with financial crime, which includes money laundering. The FCA is also the competent authority for supervising compliance of most credit and financial institutions with the Money Laundering Regulations. This includes financial institutions that are not FSMA-authorised. Information is available at **www.fca.org.uk/firms/financial-crime/money-laundering-terrorist-financing**.

5. Canada

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) was established as an independent agency with a mandate to collect, analyse, assess and disclose information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities. FINTRAC's guidelines for compliance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act are set out at **https://fintrac-canafe.canada.ca/guidance-directives/guidance-directives-eng**.

6. India

The Prevention of Money-Laundering Act, 2002, effective 1 July 2005: **https://fiuindia.gov.in/files/AML_Legislation/pmla_2002.html**.

7. Latin America

Grupo de Acción Financiera de Latinoamérica (GAFILAT) is the FATF-style regional body for Latin America. Its mutual evaluation results affect correspondent banking relationships, a practical concern for payment flows involving LATAM counterparts. See **https://gafilat.org/index.php/es/**.

For Brazil, Lei 9.613/1998, substantially amended by Lei 12.683/2012, is the AML framework. Brazil's FIU is Conselho de Controle de Atividades Financeiras (COAF). Non-financial gatekeepers, including lawyers in certain circumstances, have reporting obligations.

- **www.gov.br/coaf/pt-br**: COAF's suspicious transaction reporting and guidance.

8. Other LATAM jurisdictions

Mexico's Ley Antilavado (2012) imposes AML obligations on a broad range of non-financial 'vulnerable activities'. Other major LATAM jurisdictions maintain comprehensive AML frameworks aligned, to varying degrees, with FATF standards. Counsel should verify applicable obligations in each jurisdiction.

V. Import/export regulations

A. Customs

All countries require import formalities to bring goods into the country; most impose customs duty or some sort of import tax; and most have some form of framework for restrictions, controls or prohibitions on some types of goods. Useful customs law websites include the following.

- **www.wcoomd.org/en.aspx**: World Customs Organization.
- **www.wcoomd.org/en/about-us/wco-members/membership.aspx**: Links to World Custom Organizations.
- **www.wto.org/english/tratop_e/cusval_e/cusval_e.htm**: Customs valuation on the WTO website.
- **www.cbp.gov/trade**: US Customs and Border Protection (CBP).
- **www.ecfr.gov/**: Code of Federal Regulations.
- **https://hts.usitc.gov/**: Harmonized Tariff Schedule.

- **https://rulings.cbp.gov/home**: Customs Rulings Online Search System.

- **https://citba.org/**: Customs and International Trade Bar Association.

- **www.cbp.gov/trade/rulings/ruling-letters**: Ruling letters issued by US Customs Service and Border Protection.

- **https://eur-lex.europa.eu/summary/chapter/21.html**: Summary of current EU tax policies.

- **www.customs.go.jp/english/exp-imp/index.htm**: This website deals with all aspects of importing and exporting from Japan.

- **http://english.customs.gov.cn/**: This website deals with all aspects of importing and exporting from the People's Republic of China.

- **www.cbic.gov.in/**: This website deals with all aspects of excise and customs in India.

- **www.cbsa-asfc.gc.ca/menu-eng.html**: This website has information on Canadian import regulations and value for duty principles.

- **www.gov.br/receitafederal/pt-br**: Receita Federal do Brasil (RFB) – all operations must be processed through Sistema Integrado de Comércio Exterior (SISCOMEX), Brazil's mandatory electronic foreign trade system. See **portalunico.siscomex.gov.br**.

- **http://omawww.sat.gob.mx/English/Paginas/default.aspx**: Mexico Customs (Servicio de Administración Tributaria or SAT). Mexico operates a Ventanilla Única de Comercio Exterior (single trade window).

- **www.aduana.cl/aduana/site/edic/base/port/inicio.html**: Servicio Nacional de Aduanas (Chile).

- **www.dian.gov.co/**: Dirección de Impuestos y Aduanas Nacionales (DIAN) (Colombia); customs and tax administration.

- **www.afip.gob.ar/landing/default.asp**: Administración Federal de Ingresos Públicos (AFIP) in Argentina, includes the Dirección General de Aduanas.

B. Foreign trade regulations

Foreign trade regulations have been made more accessible by the internet. The following are some useful websites.

- **https://washburnlaw.libguides.com/az.php?a=f**: The foreign and international law web is a service of the Washburn University School of Law Library. The goal is to provide links to primary foreign and international legal resources, research aids, and websites useful in conducting research in these areas of the law. Note that the library requires an account to access the database.

- **www.trade.gov/ccg-landing-page**: The Country Commercial Guides (CCG) are prepared by US Embassy staff once a year and contain information on the business and economic situation of foreign countries and the political climate as it affects US business.

- **https://ised-isde.canada.ca/site/ised/en**: Services provided by Innovation, Science and Economic Development Canada.

- **www.cit.uscourts.gov/**: Contains decisions of the US Court of International Trade on international trade issues.

- **www.census.gov/foreign-trade/index.html**: Contains general information concerning foreign trade and foreign trade regulations.

- **www.cites.org/**: Convention on International Trade in Endangered Species (CITES) website contains listings of wildlife protected under CITES, as well as permit requirements for the international trade of such wildlife and commercial products derived from such wildlife.

1. Latin America

Several LATAM jurisdictions require pre-clearance or registration by sector-specific agencies before goods can be imported. Failure to obtain approvals results in cargo detention. In Brazil, the principal agencies are:

- **gov.br/anvisa**: Agência Nacional de Vigilância Sanitária (ANVISA) – pharmaceuticals, medical devices, health products, cosmetics and food. Registration timelines can exceed 12 months;

- **gov.br/inmetro**: Instituto Nacional de Metrologia, Qualidade e Tecnologia (INMETRO) – compulsory product certification for a broad range of industrial and consumer goods; and

- **gov.br/agricultura**: Ministério da Agricultura e Pecuária (MAPA) – sanitary/ phytosanitary requirements for agricultural products.

Other LATAM jurisdictions maintain equivalent agencies (eg, Comisión Federal para la Protección contra Riesgos Sanitarios (COFEPRIS) in Mexico, Instituto Nacional de Vigilancia de Medicamentos y Alimentos (INVIMA) in Colombia and Instituto de Salud Pública (ISP) in Chile). Product labelling in the local language – Portuguese for Brazil and Spanish elsewhere – is a regulatory requirement. Non-compliant goods are held at customs.

C. Imports

1. Licenses

In any international sales transaction, the goods or services being exported may be subject to licensing requirements in the exporting and/or importing countries. The following are some descriptive websites:

- **www.wto.org/english/tratop_e/implic_e/implic_e.htm**: Import licensing on the WTO website;

- **www.ustr.gov/trade-agreements/wto-multilateral-affairs/wto-issues/import-licensing**: Exporting license requirements, US perspective;

- **www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=24d528fddbfc930044f9ff621f961987**: The US Department of State Office of Defense Trade Controls website contains information regarding export/import regulations for defence articles and defence services covered by the US Munitions List (USML);

- **www.tid.gov.hk/en/index.html**: The first step to import/export licensing, Hong Kong SAR perspective;

- **www.trade.gov.tw/english/ProcessList/List.aspx?code=9020&nodeID=4650**: Import/export licensing, Board of Foreign Trade, ROC Taiwan;

- **www.cbsa-asfc.gc.ca/import/guide-eng.html**: The Canada Border Services Agency website has a guide for foreigners wishing to sell goods to Canada; and

- **www.gov.uk/business-and-industry/export-controls**: This comprehensive website explains up-to-date requirements for export from the UK.

Latin America: documentary formalities

Several LATAM jurisdictions require consular invoices, certificates of origin with notarisation/apostille and sworn translations into the local language. Non-compliance can result in cargo holds or denial of preferential tariff rates. The Hague Apostille Convention (hcch.net) has been ratified by most LATAM jurisdictions (Brazil acceded 2016).

2. Duties

Duties may be assessed against imported products in the country of importation. The following websites are among those that describe the duty rates and related issues.

- **https://legacy.export.gov/Logistics-10**: Tariff rates on imports from the US.

- **www.trade.gov/**: The International Trade Administration focuses on strengthening the international competitiveness of US industry, promoting trade and investment, and ensuring fair trade and compliance with trade laws and agreements.

- **https://hts.usitc.gov/**: Harmonized Tariff Schedule of the US (HTSUS). This website provides links to the current harmonised tariff schedule, which specifies the specific duty rate and/or quota category for all imported products.

- **https://ustr.gov/**: Office of the US Trade Representative provides a variety of information and news regarding US trade.

- **www.cbsa-asfc.gc.ca/menu-eng.html**: The Canada Border Services Agency's website lists customs tariffs, regulations, memoranda and other publications relating to the rates of duties.

- **www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/menu-eng.html**: Canada Customs Tariffs.

- **www.cbic.gov.in/entities/customs**: India Customs Tariffs.

3. Quotas

Quotas provide limitations on the quantity of certain goods that may enter the commerce of the import country or the quantity that may so enter, subject to a reduced customs duty rate.

One commentator has noted that:

> '[t]here are two basic types of quotas: absolute quotas and tariff-rate quotas. Absolute quotas limit the quantity of imports to a specified level during a specified period of time. Sometimes these quotas are set globally and thus affect all imports while sometimes they are set only against specified countries. Absolute quotas are generally administered on a first-come, first-served basis. For this reason, many quotas are filled shortly after the opening of the quota period. Tariff-rate quotas allow a specified quantity of goods to be imported at a reduced tariff rate during the specified quota period.' Steven M Suranovic, International Trade Theory & Policy Analysis, chapter 10, available at **https://internationalecon.com/Trade/Tch10/T10-2.php**.

The following are some useful websites describing quota trade barriers.

- **www.cbp.gov/trade/quota/quota-restrict**: US Customs Service's quota information.

- **www.wto.org/english/tratop_e/markacc_e/markacc_e.htm#specifics**: WTO: quotas.

- **www.emergingtextiles.com/?q=idx&s=11-trad**: Quotas and tariffs – textile and clothing trade information.

- **www.trade.gov/otexa**: The Office of Textile and Apparels (OTEXA) website contains information regarding the implementation and applicability of various textile and apparel-related trade preference programmes, for instance, the US–Mexico–Canada Free Trade Agreement (USMCA), the African Growth and Opportunity Act (AGOA) and the Caribbean Basin Trade Partnership Act (CBTPA), and quota regimes.

- **www.cbsa-asfc.gc.ca/publications/dm-md/d10/d10-18-1-eng.html**: The Canadian Tariff Rate Quotas Memorandum provides a general overview of tariff rate quotas and the legislation that applies to them. It also outlines departmental guidelines for the administration of tariff rate quotas.

- **https://legacy.export.gov/article?id=China-Import-Tariffs**: Information on tariffs and what US firms should be aware of when exporting to China. Note that this information was last updated in 2019.

- **www.sars.gov.za/customs-and-excise/tariff/**: South African tariffs.

- **mercosur.int**: Mercosur Common External Tariff (Tarifa Externa Comum or TEC) – extensive exception lists exist; do not assume uniform tariff treatment across Member States.

- **alianzapacifico.net/en**: Pacific Alliance (Chile, Colombia, Mexico and Peru). Approximately 92 per cent tariff elimination with cumulative rules of origin.

- **sice.oas.org**: The OAS/SICE Foreign Trade Information System is an essential research tool for LATAM trade agreements, tariff schedules and rules of origin.

- **aladi.org**: ALADI/LAIA – Regional tariff preference and partial-scope agreements.

4. Trade barriers and tariffs

There has been much discussion over the years of the impact of trade and non-trade barriers to imports in various countries. Since the publication of the last Guide, we have witnessed an escalation in tariff and trade wars. As of early 2026, the US had in place a ten per cent global tariff on imports under section 122 of the Trade Act of 1974, effective 24 February 2026, following a US Supreme Court ruling that struck down previous International Emergency Economic Powers Act (IEEPA) tariffs. This ten per cent tariff acts as a baseline, with specialised, higher duties on metals and other goods. The current landscape is volatile and fraught with uncertainty involving negotiations, and retaliatory initiatives involving various economies and affecting a large number of sectors.

The following websites provide a useful overview.

- **www.wto.org/english/tratop_e/serv_e/serv_e.htm**: General Agreement on Tariffs and Trade (1947) (as amended) via the WTO.

- **www.wto.org/english/tratop_e/gatt_e/gatt_e.htm**: GATT and the Goods Council.

- **https://ttd.wto.org/en**: WTO tariff and trade platform.

- **www.wto.org/english/tratop_e/tbt_e/tbt_e.htm**: Technical Barriers to Trade Agreement.

- **https://it.usembassy.gov/ustr-releases-2025-national-trade-estimate-report/**: 2025 National Trade Estimate Report on Foreign Trade Barriers. Summary of trade limitations and conditions on a list of countries.

- **https://ustr.gov/trade-agreements**: US trade agreements.

- **https://taxation-customs.ec.europa.eu/customs/customs-tariff/eu-customs-tariff-taric_en**: EU online customs tariff database (Tarif Intégré de la Communauté or TARIC).

- **https://egs.apec.org/resources/apec-tariff**: APEC tariff database.

- **https://citt-tcce.gc.ca/**: The Canadian International Trade Tribunal is an administrative tribunal operating within Canada's trade remedies system. It is an independent quasi-judicial body that carries out its statutory responsibilities in an autonomous and impartial manner, and reports to Parliament through the Minister of Finance. Its mandate, inter alia, is to conduct inquiries into whether dumped or subsidised imports have caused, or are threatening to cause, material injury to a domestic industry; hear appeals made under the Customs Act, the Excise Tax Act and the Special Import Measures Act; conduct inquiries and provide advice on such economic, trade and tariff issues; conduct inquiries into complaints by potential suppliers concerning procurement by the federal government and decide whether the federal government breached its obligations under certain trade agreements to which Canada is party; and conduct safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers.

Latin America: trade defence measures

Several LATAM countries actively employ anti-dumping, countervailing and safeguard measures. Brazil's Departamento de Defesa Comercial (DECOM) is among the most active trade defence authorities globally, with significant caseloads involving steel, chemicals and Asian-origin products. Anti-dumping measures can materially affect the landed cost. The following websites provide a useful overview.

- **www.gov.br/mdic/pt-br/composicao/secretaria-de-comercio-exterior-secex/departamento-de-defesa-comercial**: Brazil Secretariat of Foreign Trade (SECEX)/DECOM.

- **www.gob.mx/se**: Mexico Secretaría de Economía (trade remedy investigations).

- **www.argentina.gob.ar/cnce**: There are many government websites devoted to the issue of product exporting; virtually all governments do this to a lesser or greater extent, including the following:

- **https://legacy.export.gov/welcome**: US Government export portal.

- **www.trade.gov/**: US International Trade Administration (ITA) website contains general export promotion information.

- **www.exim.gov/**: Ex-Im Bank, the official export credit agency of the US Government.

- **www.census.gov/foreign-trade/schedules/b/index.html**: The US Census Bureau provides the ten digit Schedule B classification product codes that are used to classify US exports.
- **www.fas.usda.gov/programs/export-credit-guarantee-program-gsm-102**: Grown or made foodstuffs.
- **www.bis.doc.gov/index.htm**: The US Department of Commerce Bureau of Industry and Security (BIS) website contains information regarding export licensing requirements for products covered by the commodity control list.
- **www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foregin-Assets-Control.aspx**: The US Department of Treasury Office of Foreign Assets Control (OFAC) website contains information regarding licensing requirements for exports to countries currently covered by US embargoes.
- **www.cbp.gov/**: The US Customs and Border Patrol website contains general export information.
- **www.deadiversion.usdoj.gov/**: The US Drug Enforcement Administration Office of Diversion Control website contains information regarding export licensing/registration requirements for certain chemicals.
- **gov.br/inpi**: Brazil's Instituto Nacional da Propriedade Industrial (INPI) deals with trademark, patent and industrial design registration; and recordal of technology transfer and license agreements.
- **https://international.canada.ca/en/global-affairs**: Provides the Global Affairs Canada website.

VI. Resale regulation in the country of export

A. Advertising restrictions

Advertising, particularly advertising directed at consumers, is subject to a variety of restrictions imposed by national governments around the world, generally prohibiting unfair or deceptive advertising, but also limiting other types of advertising considered pernicious in the consumer context. The following websites describe some of these restrictions.

- **www.asa.org.uk/**: Advertising Standards Authority; see the 'Advice and Resources' tab for a comprehensive resource library and advice services.
- **www.ftc.gov/business-guidance/advertising-marketing**: The Federal Trade Commission (FTC) – business, consumer, policy information and industry guides to advertising.

- **https://competition-bureau.canada.ca/en**: The Canadian Competition Bureau is responsible for the administration and enforcement of the Competition Act, the Consumer Packaging and Labelling Act, the Textile Labelling Act and the Precious Metals Marking Act. Its role is to advocate for and protect Canadian consumers, and ensure that businesses continue to prosper in a competitive and innovative marketplace. This is an extensive website, with a number of guidelines relating to the marking of 'Made in Canada' rules and Advertising Guidelines.

- **https://inspection.canada.ca/en/food-labels/labelling/industry**: The Canadian Food Inspection Agency Industry Labelling Tool is the reference for all food inspectors and stakeholders in Canada. It replaced the Guide to Food Labelling and Advertising.

- **https://adstandards.ca/**: The Canadian Code of Advertising Standards (the 'Code') has been developed to promote the professional practice of advertising and is administered by Advertising Standards Canada, the industry body committed to creating and maintaining community confidence in advertising. The Code sets the criteria for acceptable advertising and forms the basis upon which advertising is evaluated in response to consumer, trade or special interest group complaints.

- **www.easa-alliance.org/**: European Advertising Standards Alliance (EASA).

- **https://commission.europa.eu/law/law-topic/consumer-protection-law_en**: EU directives and enforcement policies on fair business practices, comparative and misleading advertising, and related subjects.

- **https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0114**: EU Directive 2006/114/EC on misleading and comparative advertising, mainly protecting traders against misleading advertising in B2B relations. However, its rules on comparative advertising also apply to advertising directed at consumers.

- **www.wipo.int/wipolex/en/legislation/details/19554**: Danish Marketing Practices Act.

- **www.irishstatutebook.ie/eli/1978/act/1/enacted/en/html**: Irish Consumer Information Act, 1978.

- **https://adstandards.ie/**: Advertising Standards Authority for Ireland (self-regulatory body).

- **www.reclamecode.nl/engels/dutch-advertising-code/general/**: Dutch Advertising Code (a system of self-regulation).

- **www.konsumentverket.se/en/consumer-laws/**: Overview of Swedish consumer, advertising and marketing law.

- **https://spamlaws.com/**: Summaries and links to laws dealing with unsolicited commercial email ('spam') in the US, EU (and its Member States) and ten other countries.

Latin America: advertising regulation

LATAM jurisdictions regulate advertising through a combination of consumer protection legislation and self-regulatory bodies. In Brazil, Conselho Nacional de Autorregulamentação Publicitária (CONAR) (**http://conar.org.br/**) is the self-regulatory advertising body whose decisions carry significant practical authority. The Código de Defesa do Consumidor (CDC, Lei 8.078/1990, Articles 36–38) prohibits misleading and abusive advertising. Chile's Law 20.606 on food labelling is widely considered among the most restrictive regimes globally for the advertising of ultra-processed foods directed at children (see **www.bcn.cl/leychile/**). Comparative advertising is permitted in Brazil under strict truthfulness requirements; influencer marketing and digital advertising are increasingly regulated across the region.

B. Business ethics/codes

Beyond statutory law, companies entering a new country may be subject to a variety of ethical precepts or business codes applicable to the conduct of business or marketing in the country. The following websites provide examples of such codes:

- **https://business-ethics.org/**: International Business Ethics Institute; and
- **https://ethisphere.com/**: Business Ethics in different countries.

C. Consumer protection laws

Consumer protection concerns manifest themselves in a wide variety of legislation, ranging from the prohibition of certain 'unfair' terms in consumer contracts to minimum terms for certain contracts, such as consumer product warranties. The following websites survey the types of legislation that may be found in various countries.

- **https://unctad.org/topic/competition-and-consumer-protection/un-guidelines-for-consumer-protection**: UN Conference on Trade and Development (UNCTAD) – UN guidelines for consumer protection.
- **https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0422-**: OECD Recommendation of the OECD Council on Consumer Protection in E-commerce.
- **www.consumersinternational.org/**: Consumer International is a worldwide non-profit federation of consumer organisations dedicated to the protection and promotion of consumer interests.
- **https://consumer.ftc.gov/**: FTC's consumer protection information.
- **www.canada.ca/en/services/finance/consumer-affairs.html**: The Innovation, Science and Economic Development Canada website lists and links privacy laws, provincial and federal consumer protection laws, voluntary industry codes and standards.

- **https://commission.europa.eu/topics/consumers/consumer-rights-and-complaints_en**: A hub for information avenues to find out more about consumer rights and how consumer law is enforced across the EU.
- **https://kfst.dk/**: Danish consumer laws and enforcement authorities.
- **www.konsumentverket.se/en/consumer-laws/**: Overview of Swedish consumer law.
- **www.gov.uk/consumer-protection-rights**: UK consumer rights overview.
- **www.econsumer.gov/?lang=en-US**: This website enables consumers to register cross-border e-commerce complaints.

1. Latin America

LATAM consumer protection regimes are generally mandatory – they cannot be derogated by choice-of-law clauses – and apply to imported products on the same basis as domestic goods. The importer is typically the primary respondent, but the foreign manufacturer may also be named.

Brazil

CDC Lei 8.078/1990 is one of the most protective consumer regimes globally. Key features included strict product liability, regardless of fault (Articles 12–14), with the entire supply chain jointly and severally liable; well-developed consumer class actions (ação civil pública) with substantial aggregate exposure; mandatory recall obligations triggered by Secretaria Nacional do Consumidor (SENACON) independently of the manufacturer; and mandatory applicability as normas de ordem pública:

- **https://planalto.gov.br/ccivil_03/leis/l8078compilado.htm**: CDC full text; and
- **www.gov.br/mj/pt-br/assuntos/seus-direitos/consumidor**: SENACON – enforcement and recall database.

Other LATAM jurisdictions

Mexico's Procuraduría Federal del Consumidor (PROFECO) (gob.mx/profeco) and Chile's Servicio Nacional del Consumidor (SERNAC) (www.sernac.cl/portal/617/w3-channel.html) are the principal consumer enforcement agencies in their respective jurisdictions. Similar agencies exist throughout the region.

D. Transfer pricing

Most countries have laws that regulate transfer pricing (TP) and in particular prohibit the manipulation of prices between connected parties so as to transfer profits to lower tax jurisdictions. TP refers to the price for the transfer of products and services in transactions between parts of a multinational corporate group, transactions that, if manipulated, could affect the allocation of profits for tax and other purposes among such entities. In an effort to avoid the inappropriate allocation of such profits, international guidelines promulgated by the OECD adopt the arm's-length principle; that is, the transfer price should be set at the same price as that for two companies that are independent entities, negotiating at arm's length, not part of the same corporate structure.

The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (current edition: January 2022) provide the primary international framework. The 2022 edition incorporates revisions from Base Erosion and Profit Shifting (BEPS) Actions 8–10 (aligning TP outcomes with value creation) and is available at **www.oecd.org/en/topics/transfer-pricing.html**.

The OECD/G20 BEPS Action 13 introduced a standardised three-tiered TP documentation approach – master file, local file, and country-by-country report (CbCR) – now widely adopted. Counsel should verify TP documentation requirements in both exporting and importing jurisdictions.

Regarding OECD Pillar One, in February 2024, the OECD published the Amount B report, providing a simplified TP approach for 'baseline marketing and distribution activities'. Directly relevant to international sales involving related-party distributors. Jurisdictions may adopt Amount B on an elective or mandatory basis: **www.oecd.org/en/publications/2024/02/pillar-one-amount-b_41a41e1e.html**.

Other resources include the following:

- **www.irs.gov/irmu**: US Internal Revenue Service guidelines and directives on the determination of TP methodologies for international transactions; and
- **www.canada.ca/en/revenue-agency/services/tax/international-non-residents/information-been-moved/transfer-pricing.html**: This circular provides an overview of TP in Canada; and
- **www.sars.gov.za/**: In their practice notes and addenda, the South Africa Revenue Services set out details relating to their adoption of the arm's-length principle.

1. TP in Latin America

LATAM jurisdictions have significantly developed their TP regimes, with increasing alignment to OECD standards.

Brazil

For the new arm's-length regime (Lei 14.596/2023), effective 1 January 2024, Brazil replaced its longstanding fixed-margin system with OECD-aligned arm's-length rules, adopting the five OECD methods and contemporaneous TP documentation (local file, master file and CbCR) per BEPS Action 13. This is the most significant LATAM TP development in decades and affects every intragroup sales contract involving Brazil. Counsel should note: (1) contracts under the prior regime may require pricing reassessment for fiscal year (FY) 2024+; (2) a transitional opt-in was available for FY 2023; and (3) failure to maintain documentation triggers penalties and presumptive adjustments.

Other LATAM jurisdictions

Mexico has a longstanding OECD-aligned TP regime: Ley del ISR Articles 76, 76-A and 179–184.

Argentina employs a distinctive ‘sixth method’ for commodity transactions requiring pricing based on international market quotations.

Colombia and Chile both have OECD-aligned regimes with documentation requirements.

E. Sale of goods: local restrictions

Goods imported into a foreign market may be subject to local content, disclosure and performance requirements or restrictions, such as those referenced on the following websites.

- **www.ecfr.gov/**: The US Code of Federal Regulations website contains links to all titles of the code of federal regulations, which contain all federal import and export regulations.

- **www.aphis.usda.gov/**: USDA import information.

- **www.fda.gov/**: US Food and Drug Administration (FDA) website contains information regarding the regulation of domestic and imported food, cosmetics, cosmetic devices (including sunglasses), drugs, medical devices and radiation emitting devices (including consumer and business products).

- **www.trade.gov/otexa**: The OTEXA website contains information regarding the implementation and applicability of various textile and apparel-related trade preference programmes, such as USMCA, AGOA and CBTPA. This website also maintains information on textile quotas.

- **www.fws.gov/program/endangered-species**: The US Fish and Wildlife Service (FWS) website contains information on import regulations concerning federal endangered species, as well as commercial products derived from such federal endangered species.

- **www.fcc.gov/**: The US Federal Communications Commission (FCC) website contains information on import regulations for electronic and telephonic devices.

- **www.ftc.gov/legal-library/browse/rules/textile-products-identification-act-text**: FTC rules regarding garment labelling requirements for clothing.

- **www.aphis.usda.gov/**: The US Department of Agriculture Animal and Plant Health Inspection Service (APHIS) website contains information on regulations for imported animal and agricultural products.

- **www.fsis.usda.gov/guidelines/2022-0001**: The US Department of Agriculture Food Safety and Inspection Service (FSIS) website contains information regarding import/export requirements of meat, poultry and egg products.

- **www.epa.gov/tsca-import-export-requirements**: The US Environmental Protection Agency (EPA) website contains information on the Toxic Substance Control Act (TSCA), which regulates the importation of certain chemical substances.

- **www.atf.gov/**: Bureau of Alcohol, Tobacco and Firearms (ATF) regulations concerning the import of alcohol, tobacco, and firearm products.

1. Latin America

Regarding local restrictions on imported goods, goods imported into LATAM markets are subject to product registration, labelling and certification requirements that must be completed before resale. Local-language labelling (Portuguese for Brazil and Spanish elsewhere) is mandatory; non-compliant goods cannot be lawfully sold. In Brazil, key requirements include ANVISA registration for health products (**gov.br/anvisa**; timelines exceeding 12 months for pharma), INMETRO compulsory certification for industrial and consumer goods (**gov.br/inmetro**) and MAPA SPS requirements for agricultural products (**gov.br/agricultura**). Equivalent agencies exist in other LATAM jurisdictions (eg, COFEPRIS in Mexico and INVIMA in Colombia). Counsel should factor regulatory lead times into contractual delivery and launch schedules.

F. Intellectual property protection

Intellectual property associated with exported products – trademarks, copyrights or patents, and industrial designs, as well as trade secrets associated with products or their production – are subject to extensive protection by way of national legislation in every country, as well as a network of international treaties administered principally by the World Intellectual Property Organization (WIPO) and WTO (Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement). Intellectual property rights are territorial: registration in one country does not automatically extend to another. Local counsel should be consulted to consider, among other things:

- trademark and patent registration in each target market (Madrid Protocol for trademarks; Patent Cooperation Treaty (PCT) for patents; and Hague Agreement for industrial designs);

- registering license and technology transfer agreements with the national intellectual property authority, where required;

- intellectual property provisions in sales and distribution agreements (license scope, territorial restrictions and indemnification);

- compulsory licensing and parallel import risks; and

- trade secret protection via contractual confidentiality provisions.

The following websites provide an overview of the protections available:

- **www.wipo.int/portal/en/index.html**: The WIPO administers international treaties on intellectual property. This website contains a number of useful intellectual property resources, including the WIPO Guide to Intellectual Property Worldwide: **https://tind.wipo.int/record/12656?ln=en&v=pdf**.

- **www.uspto.gov/**: Extensive information including documents, forms and links for intellectual property offices worldwide.

- **www.wipo.int/portal/en/index.html**: Search the website for World Intellectual Property Organisation: Copyright Treaty (20 December 1996).

- **www.wipo.int/portal/en/index.html**: Search the website for World Intellectual Property Organization–World Trade Organization: Agreement Between WIPO and WTO (Geneva, 22 December 1995).

- **www.wipo.int/portal/en/index.html**: Search the website for Universal Copyright Convention as revised at Paris on 24 July 1971; and Protocols (24 July 1971).

- **www.consilium.europa.eu/en/policies/how-the-eu-protects-intellectual-property-rights/**: A hub for information on how the EU protects intellectual and industrial property rights.

- **www.law.com/topics/intellectual-property/**: The website features intellectual property news, current cases and practice papers.

- **www.unesco.org/en/cultnatlaws**: UNESCO's Database of National Cultural Heritage Laws.

- **https://intellectual-property-helpdesk.ec.europa.eu/index_en**: Intellectual Property Rights Help Desk (European Commission).

- **www.wto.org/english/tratop_e/trips_e/trips_e.htm#issues**: WTO's intellectual property webpage.

- **www.inta.org/**: International Trademark Association (INTA).

- **www.iipa.com/**: International Intellectual Property Alliance (IIPA).

- **www.jiii.or.jp/apic/us/e_top.htm**: Asia-Pacific Industrial Property Center (APIC).

- **www.copyright.gov/**: US Copyright Office (Library of Congress).

- **www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/Home**: The Canadian Intellectual Property Office, a special operating agency (SOA) associated with Innovation, Science and Economic Development Canada, is responsible for the administration and processing of the greater part of intellectual property in Canada. The website contains laws, guides, links and databases of patents, trademarks and copyright registrations.

- **www.ipo.gov.uk/**: The UK Intellectual Property Office website surveying intellectual property and the resulting protections.

- **www.sice.oas.org/**: The OAS Foreign Trade Information System/SICE contains national legislation, directories and links to official sources on intellectual property information.

- **www.wipo.int/wipolex/en/**: The Collection of Laws for Electronic Access includes bibliographic citations/references and some full text in English of translated foreign intellectual property laws.

- **https://english.cnipa.gov.cn/**: China National Intellectual Property Administration.

- **www.rupto.ru/rupto/portal/start?lang=en**: Russian Federal Service for Intellectual Property.

- **https://copyright.gov.in/**: Copyright Office, Government of India.

- **https://ipindia.gov.in/Home/AboutUs**: Office of the Controller-General of Patents, Designs and Trademarks, Department of Industrial Policy Promotions, Ministry of Commerce and Industry, Government of India.

- **gov.br/inpi**: INPI (Brazil) deals with trademark, patent and industrial design registration. INPI administers the recordal (*averbação*) of technology transfer, license, franchise and technical assistance agreements.

- **www.mbie.govt.nz/business-and-employment/business/intellectual-property**: Intellectual Property Ministry of Business, Innovation and Employment.

- **www.ag.gov.au/rights-and-protections/copyright**: Australia's Copyright Law Branch, Attorney-General's Department.

G. Electronic commerce issues

Electronic commerce is now a primary channel for both B2B and business-to-consumer (B2C) international trade. The regulatory landscape has expanded well beyond contract formation and electronic signature issues. Important items to consider include:

- electronic contracting and signatures: validity, legal equivalence and evidentiary status;

- data protection and privacy: comprehensive regimes with extraterritorial application (General Data Protection Regulation (GDPR), Lei Geral de Proteção de Dados (LGPD) and equivalents);

- e-commerce consumer protection: disclosure, withdrawal and transparency obligations;

- platform regulation: emerging legislation (eg, EU Digital Services Act (DSA)) imposing obligations on online marketplaces; and

- digital taxation: increasing requirements for non-resident digital service providers to collect VAT/goods and services tax (GST) (see also section VII).

The following websites provide an example of the scope of ongoing legal developments.

- **https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce**: UNCITRAL – Model Law on Electronic Commerce (revised 14 June 1996) with the additional Article 5 bis as adopted in 1998.

- **www.uncitral.org/uncitral/uncitral_texts/electronic_commerce/2001Model_signatures.html**: 2001 – UNCITRAL Model Law on Electronic Signatures with Guide to Enactment.

- **https://uncitral.un.org/en/texts/ecommerce/conventions/electronic_communications**: 2005 UN Convention on the Use of Electronic Communications in International Contracts.

- **www.ftc.gov/**: US FTC – consumer protection.

- **https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-221/**: Canada's Electronic Commerce Regulations.

- **www.ecommerce-europe.eu**: Website of the association of e-commerce companies selling products and/or services to consumers in Europe.

H. Data protection and privacy

Data protection is now a front-line compliance issue in virtually every cross-border sales transaction involving e-commerce. Comprehensive regimes impose obligations on any entity collecting, processing or transferring personal data, often with extraterritorial reach.

1. EU GDPR (Regulation 2016/679)

The GDPR has been applied since 25 May 2018. It is extraterritorial in scope (Article 3). International data transfers require an adequacy decision, standard contractual clauses (SCCs), binding corporate rules (BCRs) or derogation (Article 49). Penalties for serious infringements are up to €20m or four per cent of global turnover.

- **https://gdpr-info.eu/**: Full GDPR text.

- **www.edpb.europa.eu/edpb_en**: European Data Protection Board.

Brazil

LGPD (Lei 13.709/2018), effective since 18 September 2020, is an extraterritorial application to the processing of the personal data of individuals located in Brazil (Article 3). Autoridade Nacional de Proteção de Dados (ANPD) is the supervisory authority. International data transfers require legal bases under Articles 33–36 (SCC's framework is still under development as of 2025). The sanction is up to two per cent of revenue in Brazil per infraction, capped at BRL50m:

- **https://planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/l13709.htm**: LGPD full text.

- **gov.br/anpd**: ANPD: regulations and enforcement.

Other LATAM data protection regimes

Argentina holds an EU adequacy determination (under review; see aaip.gob.ar). Colombia enacted Law 1581/2012 (**https://sedeelectronica.sic.gov.co/**); Mexico enacted the Federal Data Protection Law 2010 (**inai.org.mx**); and Chile enacted Law 21.719 in December 2024, effective 1 December 2026 (maintain comprehensive frameworks).

- **https://iapp.org/**: IAPP global data protection tracker.

- **https://unctad.org/page/data-protection-and-privacy-legislation-worldwide**: UNCTAD global tracker.

VII. Taxes

A. What taxes may apply?

International sales transactions may involve a variety of tax issues. Sometimes, the parties may negotiate responsibility for certain taxes as part of the purchase price, or the seller may negotiate for indemnity or reimbursement in the case of tax liability. Applicable taxes may include sales tax, VAT, and goods and services tax (GST). The application of any tax depends on the facts of each case, such as the countries involved, whether the seller has a permanent establishment in the buyer's country and the terms of sale.

Parties should consider at least the following categories of tax exposure in any cross-border sales transaction and should consider consulting with local counsel on, among other things:

- Indirect taxes (VAT, GST, sales tax and excise duties): Rates and registration thresholds vary. In some countries, notably Brazil, multiple indirect taxes overlap at the federal, state and municipal levels.

- Withholding taxes on cross-border payments for services, royalties, interest and technical fees. In certain jurisdictions, the aggregate burden can be substantial (eg, payments from Brazil may attract *imposto de renda retido na fonte* (IRRF), *contribuição sobre intervenção no domínio econômico* (CIDE), Programa de Integração Social (PIS)/*contribuição para financiamento da seguridade social* (COFINS)-Import and *imposto sobre serviços* (ISS), with effective rates exceeding 40 per cent). Gross-up clauses are a standard contractual response.

- Permanent establishment risk: Local warehousing, consignment stock and dependent agents may create taxable permanent establishments. Post-BEPS, several countries have expanded permanent establishment definitions.

- OECD/G20 BEPS and Pillar Two (Global Minimum Tax): Global Anti-Base Erosion (GloBE) Rules (15 per cent minimum effective rate) are being implemented across jurisdictions. See **www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html**.

- **https://guides.ll.georgetown.edu/internationaltaxlawresearch**: International and Foreign Tax Law Research Guide provided by Georgetown University Law Center.

- **https://taxation-customs.ec.europa.eu/index_en**: A hub for regulations under the Taxation and Customs Union. Note that tax law is still a creature of national legislation; hence, a check must be made of the law of each country into which a company plans to enter. Also note that, on 17 May 2023, the European Commission proposed a major reform of the EU Customs Union, responding to the developments of pressures under which EU Customs operates, including the increase in trade volumes in e-commerce and the ever-growing number of EU standards that need to be checked at the border. The proposal includes a new EU Customs Authority overseeing an EU Customs Data Hub, which is intended to act as the engine of the new system replacing the current customs IT infrastructure in the EU Member States.

- **https://ec.europa.eu/commission/presscorner/detail/de/memo_10_633**: EU information on VAT, including links to the VAT authority in various countries.

- **www.canada.ca/en/revenue-agency/services/tax/businesses/topics/e-commerce/e-commerce.html**: Information from the Canada Revenue Agency on conducting business on the internet.

- **www.ato.gov.au/businesses-and-organisations/international-tax-for-business/in-detail/doing-business-in-australia-or-overseas/doing-business-overseas-what-you-need-to-know**: Doing business overseas – what you need to know; general international tax information provided by the Australian Taxation Office, including information on permanent establishment and Australian GST.

- **www.oecd.org/tax/**: General tax information from the OECD.

- **www.oecd.org/en/publications/2024/11/consumption-tax-trends-2024_57c7322a.html**: OECD Consumption Tax Trends 2024.

B. Tax treaties

A tax treaty is designed to avoid double taxation for people who would otherwise pay tax on the same income in two countries. Generally, a tax treaty determines how much each country can tax income such as pensions, wages, salaries, interest and royalties. Tax treaties also generally provide guidance on permanent establishment issues.

- **www.oecd.org/en/topics/policy-issues/tax-treaties.html**: Tax treaty information published by the OECD.

- **www.oecd.org/en/publications/serials/model-tax-convention-on-income-and-on-capital-full-version_57a089d7.html**: The OECD Model Tax Convention on Income and on Capital. The link is to all the available versions, with the last version published in 2019.

- **www.irs.gov/businesses/international-businesses/united-states-model-tax-treaty-documents**: US Model – Tax Treaty Documents.

- **www.un-ilibrary.org/content/books/9789210001007/read**: UN Model Double Taxation Convention Between Developed and Developing Countries 2021.

- **www.mcgill.ca/tax-law/treaties**: Links to Canada's tax legislation, relevant government websites, and federal and provincial tax initiatives.

- **www.canada.ca/en/department-finance/programs/tax-policy/tax-treaties.html**: Department of Finance Canada information on tax treaties.

- **www.gov.uk/government/collections/tax-treaties**: UK information on tax treaties.

- **www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z**: US Internal Revenue Service information on tax treaties.

- **https://home.treasury.gov/policy-issues/tax-policy/treaties and www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z**: US Department of Treasury and Internal Revenue Service tax treaty resources with access to the text of US income tax treaties.

- **www.ssa.gov/international/index.html**: Provides a description and the text of US bilateral social security agreements with 24 countries, eliminating dual social security coverage and taxes. 'Social Security Programs throughout the World' provides a summary of social security programmes, legislation and administration in over 170 countries. Also contains links to the social security websites of other countries.

VIII. Arbitration and dispute resolution

For international business disputes, arbitration is still considered the best alternative to court proceedings, particularly as a function of expediency, efficiency and confidentiality, where applicable. In arbitration, the parties to a business dispute refer it to one or more arbitrators who are either selected by the parties or an appointing authority chosen by the parties. Arbitration requires the consent of the parties, usually provided for in an arbitration clause, which is part of the respective business agreement. The arbitration agreement ordinarily provides for a decision of the arbitrator(s) that is final and legally binding to the parties.

Another form of dispute resolution outside the courts is mediation by which a third party, commonly referred to as the mediator, tries to assist the parties to settle the dispute by reaching a settlement agreement.

In practice, alternative dispute resolution clauses are often drafted as an escalation clause, starting with negotiation, continuing with mediation if negotiation fails and ending with arbitration if mediation fails.

For the parties of an (international) business transaction, it is important to consider the potential advantages and disadvantages of arbitration versus proceedings in front of a state court.

Potential advantages may be:

- arbitral proceedings are confidential;
- arbitral proceedings are usually faster and more business orientated than court proceedings;
- in arbitral proceedings, arbitrators with certain expertise can be appointed by the parties;
- in arbitral proceedings, the language of arbitration may be chosen freely;
- arbitral awards can be easily executed under the Convention on the Recognition and Enforcement of Foreign Awards of 19 June 1958; and
- arbitral awards can only be appealed in most countries for a very limited number of reasons, which limits the time of the dispute.

Some of the disadvantages include:

- arbitration may become very expensive; and
- arbitral awards can only be appealed in most countries for a very limited number of reasons, which means that a wrong decision is very difficult to change.

A. Mediation rules and advisability

- **https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-2&chapter=22&clang=_en**: European Convention on International Commercial Arbitration of 1961. Done at Geneva, 21 April 1961 UN, Treaty Series, volume 484, page 364 No 7041 (1963–1964).
- **www.oas.org/juridico/english/treaties/b-35.html**: Inter-American Convention on International Commercial Arbitration (Panama Convention, 30 January 1975).

B. Arbitration rules

- **www.asil.org/community/international-commercial-arbitration-guide-us-judges**: The American Society of International Law International Commercial Arbitration: A Guide for US Judges.

- **https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/**: The ICC Arbitration.
- **www.disarb.org/**: German Arbitration Institute (Deutsche Institution für Schiedsgerichtsbarkeit or DIS).
- **https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration**: Arbitration Model Laws.
- **www.adr.org/aaa/ShowPDF?doc=ADRSTG_019805**: International alternative dispute resolution (ADR) – national arbitration laws.

C. *Enforceability of arbitral awards*

- **https://uncitral.un.org/en/texts/arbitration/conventions/foreign_arbitral_awards**: UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958).
- **https://eur-lex.europa.eu/eli/convention/2007/712/oj/eng**: The 'new' Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters 2007.
- **https://eur-lex.europa.eu/eli/reg/2012/1215/oj**: Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
- **www.hcch.net/en/instruments/conventions/full-text/?cid=98**: Hague Convention of 30 June 2005 on Choice of Court Agreements.

D. *Other dispute resolution methods*

- **https://uncitral.un.org/en/working_groups/2/arbitration**: UNCITRAL Working Group II – arbitration and conciliation.
- **https://icsid.worldbank.org/rules-regulations**: The International Centre for Settlement of Investment Disputes' Rules of Procedure for Conciliation Proceedings (Conciliation Rules).
- **https://uncitral.un.org/en/texts/mediation/contractualtexts/conciliation**: UNCITRAL Conciliation Rules, 1980.

1. Latin America: arbitral institutions

- **www.ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/**: CAM-CCBC (São Paulo): The leading arbitral institution in Brazil and one of the busiest in LATAM.
- **www.ccs.cl/camsantiago/**: CAM Santiago (Chile).

- **https://iccwbo.org/**: The ICC maintains offices in São Paulo and Mexico City.

- **https://ciac-adr.org/en/about-ciac/**: Comisión Interamericana de Arbitraje Comercial (CIAC)/Inter-American Commercial Arbitration Commission (IACAC) is the default appointing authority under the Panama Convention.

IX. 'Soft' issues

In the international context, there are several issues that have a sensible importance beside the law and regulations. 'Soft' issues may play a crucial role in negotiating a contract or modulating expectations and successfully crystallising a deal. We have selected a few of them to provide some tools for a person who has to negotiate an international sales contract, and take into account the language, cultural nuances and trends in the international business community.

A. Soft law

Although there is not a unique definition of soft law, it might be assumed that it concerns 'rules' that are developed by different actors in the international arena (institutions, global merchants, arbitrators, etc) to implement a form of governance, conduct or commitments that may regulate a contractual relationship and do not rely on binding rules issued by the legislative power of states:

- **https://nyulaw.libguides.com/international-law**: This guide lists the major print and online sources for researching international law.

1. UNIDROIT

- **www.unidroit.org/instruments/commercial-contracts/upicc-model-clauses**: UNIDROIT Principles of International Commercial Contracts.

- **www.unidroit.org/**: The Uniform Law Review/Revue De Droit Uniforme is a publication of UNIDROIT.

2. UNILEX

- **www.unilex.info/dynasite.cfm?dssid=2375&dsmid=14276**: A collection of international case law and a bibliography on two of the most important international instruments for the regulation of international commercial transactions: Database of Case Law and a Bibliography on the UNIDROIT Principles, and the UN CISG.

3. ICC

- **www.iccwbo.org/**: Website of the ICC. Useful information regarding business, soft law and other valuable aspect of international commerce.

- **https://iccwbo.org/business-solutions/incoterms-rules/**: The 11 Incoterms® rules.

4. Terms

- **https://legacy.export.gov/article?id=Glossary-of-Trade-Terms**: US Trade Terms.

5. Culture

- **www.escapeartist.com/**: The website lists everything you need to know about living overseas, offshore investing and country destination profiles.
- **www.cyborlink.com/**: The website contains information regarding international business etiquette, manners and cross-cultural communication.
- **http://businessculture.org/business-culture/**: These business reports provide practical advice on proper negotiating tactics, international management, international business entertainment, cross-cultural communication, international business practices and international business behaviour. The information also includes recommendations on international business travel, international business safety and international business resources.

6. Language

- **www.foreign-trade.com/reference/glossary.htm**: This website provides an International Trade & Transportation Glossary.
- **https://iate.europa.eu/home**: Interactive terminology for Europe.

7. IBA guidelines

- **www.ibanet.org/Search/Taxonomy?Taxonomy=Guidelines&Taxonom%20%20yUid=60A5F561-AFB4-4258-8F23-F88810038C67**: Link to the IBA Style Guidelines.

8. Business practices

- **www.legacee.com/Culture/CultureOverview.html**: The Global Leader is a website on understanding Chinese business culture and business practices.
- **https://unglobalcompact.org/library/12**: This section provides case studies about efforts by companies to integrate human rights principles into their business practices.
- **www.ustr.gov/trade-topics/trade-toolbox**: Useful 'tools of the trade' to assist in your understanding of trade-related issues.

X. Specimen form of agreement: a discussion of its use in international sales transactions

No general form is adequate for every purpose and needs to be customised to achieve the goals of the parties. Inherent in the use of forms of contracts is the implicit need to mould the form for the particular purpose or purposes to be served. In addition, the choice of law in a contract affects how particular clauses are interpreted or even whether they are enforceable as written. The forum, whether in arbitration or litigation, also affects how a contract is enforced, as procedural rules vary. Additionally, while the specimen forms here are presented in English, translations of documents may impact their interpretation and enforcement.

It is important to look upon a form contract as a means and not an end in itself. The contract is not just a legal device, but an expression of the business reality of the particular transaction. To borrow a cliché, one size does not fit all. This is particularly true when a form contract drafted with a civil law system in mind is transferred to a common law system, and vice versa.

Nonetheless, form contracts can be useful both as a checklist and for language suggestions. Forms of model contracts for international transactions are provided by various entities. Without commenting on the particular merits of any of the below, the following offer 'form' agreements.

- **https://2go.iccwbo.org/explore-our-products/ebooks/model-contracts.html**: ICC forms of model contracts available for purchase. These include a variety of international sales and distribution agreements, as well as agency and occasional intermediary contracts.

- **www.idiproject.com/**: The International Distribution Institute provides forms of a model distribution contract available for members (membership fee required).

- **www.intracen.org/resources/publications/model-contracts-for-small-firms/**: The International Trade Centre of the WTO and UN provides forms of model contracts, specifically orientated to small and medium-sized businesses, that are available for free PDF download or purchase for a hard copy.

- **www.sec.gov/edgar.shtml**: Publicly traded companies file a variety of reports with the US Securities and Exchange Commission, which often contain copies of contracts in a variety of contexts.

Below, we include a form of distribution contract for discussion and informational purposes only, drafted from the standpoint of an exporter/manufacturer in the US. Many of the clauses where US laws are specifically mentioned or incorporated would require modification for use by exporters in other countries. In addition, it must be considered that the countries into which goods will be imported may have laws or regulations impacting the contract terms, for instance, laws restricting the termination of distributorships. There is no substitute for researching the specific laws of the countries in question. We provide a brief commentary on each clause, but emphasise that these comments are not all-inclusive or exhaustive, and not meant to be either critical or supportive of the way each clause is drafted, as this is dependent on the choice of law employed. As with the accompanying Guide, we expect this to be a 'living document', benefitting from a cumulative addition of perspectives and views representing various jurisdictions and legal systems.

TEXT	COMMENTS
[Note: Many of the numbers, time periods, etc, provided herein are suggestions only and may need to be altered dependent on the nature of the product being sold.]	
THIS AGREEMENT is made and entered into by and between [LEGAL NAME OF MANUFACTURER], a New York corporation with its principal office at [Address of Manufacturer], U.S.A. ("**Manufacturer**"), and [LEGAL NAME OF DISTRIBUTOR], a [type of entity] with its principal office at [Address of Distributor] ("**Distributor**").	
WHEREAS, the Manufacturer is or intends to be engaged in the business of manufacturing [Products] (the "**Products**");	
WHEREAS, the Distributor desires to act as the Manufacturer's [sole or nonexclusive] distributor of the Products in [Territory] (the "**Territory**"), and the Manufacturer desires that the Distributor provide such sales and distribution services in accordance with the terms and conditions hereinafter set forth; and	

WHEREAS, the success of both the Manufacturer and the Distributor is directly affected by the business conduct of the Distributor and the Distributor therefore recognizes that adherence to the terms of this Agreement is a matter of mutual importance and consequence to the Distributor and the Manufacturer;	
NOW, THEREFORE, in consideration of the premises and mutual promises, terms and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:	
1. Definitions. As used in this Agreement, defined terms shall have the meaning set forth in the Definitions attached hereto as Exhibit A, which is incorporated herein by reference.	
2. Appointment and Acceptance.	
2.1 Products and Territory. The Manufacturer hereby appoints the Distributor as its distributor to sell the Products within the Territory.	

2.2 Customers. The Distributor agrees to resell Products only to Customers. The Distributor is specifically excluded from soliciting (or causing anyone to solicit) orders from parties outside the Territory and from soliciting orders for or selling any other products of the Manufacturer.	
2.3 [Alternative 1:] Sole Distributor. The Distributor shall be a sole distributor of the Products in the Territory during the term of this Agreement, subject to the Manufacturer's right from time to time to make direct sales of the Products in the Territory or outside the Territory for use by Customers in the Territory.	
[Alternative 2:] Nonexclusive Distributor.	
The Distributor is a nonexclusive distributor for the Products of the Manufacturer and the Manufacturer has the right to make direct sales of the Products in the Territory, to make sales of the Products outside the Territory for use by Customers in the Territory, and to appoint additional distributors, sale representatives or other agents with a right to sell or offer for sale in the Territory any or all of the Products.	
2.4 Independent Contractor. This Agreement does not constitute the Distributor as an agent, employee, or legal representative of the Manufacturer for any purpose whatsoever.	In most jurisdictions, labels (distributor, agent, etc) help but are not determinative; if the factual relationship resembles commercial representation (acting on behalf, commission-like economics and limited resale risk), parties may face arguments for applying mandatory protections (including termination-related indemnity concepts) by statute or analogy.

The Distributor is not granted, nor shall it represent that it has been granted, any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the Manufacturer, to incur debts or make collections for the Manufacturer or to bind the Manufacturer in any manner whatsoever; it being the intent of the parties hereto to create the relationship on the part of the Distributor of an independent contractor, for whose actions or failure to act the Manufacturer shall not be responsible.	
2.5 Acceptance of Appointment. The Distributor hereby accepts appointment as distributor in the Territory and agrees to keep, observe, and perform all of the terms and conditions of this Agreement.	
3. Product Changes; Price of Products.	
3.1 Product Changes. [Alternative 1:] The Distributor agrees that the Manufacturer has the right, at its sole discretion and without incurring any Liability to the Distributor, to add or delete Products from the coverage of this Agreement and such addition or deletion will not be a breach of this Agreement or be considered a termination of this Agreement.	Re sections 3.1–3.3 and 9.8 (Unilateral product/spec/price discretion and Minimum Purchase Requirement (MPR)): In Brazil, this combination can be attacked as *condição puramente potestativa* under Civil Code Article 122 (obligation dependent on the obligor’s exclusive will), and/or as violating objective good faith if discretion makes performance unreasonably onerous; this can undermine the enforcement of ‘material breach’ termination tied to the MPR.

[Alternative 2:] The Manufacturer reserves the right, in its sole discretion and without incurring any Liability to the Distributor, to (a) alter the specifications for any Product;	
(b) discontinue the manufacture of any Product; (c) discontinue the development of any new product, whether or not such product has been announced publicly; or (d) commence the manufacture and sale of new products having features which make any Product wholly or partially obsolete, whether or not the Distributor is granted any distribution rights in respect of such new products.	
Notwithstanding the foregoing, the Manufacturer shall use its best efforts to provide the Distributor with prompt written notice of such decisions no less than sixty (60) days prior to their effective date. The Manufacturer shall fill all accepted purchase orders from the Distributor for any altered or discontinued Products of which manufacturing and commercial deliveries shall have commenced but otherwise shall have no obligation to do so unless the delivery date requested in the relevant purchase order was prior to the effective date of the change.	

3.2 Prices. The prices at which the Manufacturer shall sell Products to the Distributor shall be equal to the Suggested International Retail Prices less the Discount in effect at the time the order is received.	A unilateral pricing policy (UPP) is preferable here in light of section 3.5 providing the 'Manufacturer's name as being of the highest quality' to enforce minimum prices, protect the brand and avoid price wars. Suggested International Retail Prices are non-binding, whereas UPP is binding. This way, the Manufacturer ensures consistent, high-value brand positioning and may cease selling to a distributor that violates the UPP.
3.3 Price Changes. The Manufacturer may, at any time during the term of this Agreement, increase its Suggested International Wholesale Prices for the Products by providing the Distributor with at least sixty (60) days prior written notice.	
Increased prices shall not apply to purchase orders accepted prior to the effective date of the price increase unless such orders provide for delivery, and delivery is in fact made, more than ninety (90) days after the date of acceptance of the order. Price decreases with respect to all Products shall be effective immediately upon written notice to the Distributor on all such Products not yet delivered.	
3.4 EX WORKS. The prices paid by the Distributor, unless otherwise stated, are EX WORKS (EXW) (INCOTERMS 2000) the Manufacturer's facility in the U.S.A. or abroad, as determined by the Manufacturer.	We have chosen to keep this as worded to illustrate the point that all sources should be checked for updates: as discussed above, Incoterms were updated in 2020. Using older versions can lead to ambiguity and uncertainty. See the discussion at section IV (B) of the Guide above.

3.5 Resale Price. The Distributor shall resell Products at such prices as the Distributor, in its sole discretion, may determine; provided, however, that such prices shall be determined by the Distributor in a manner that maximizes its sales in the Territory (both in terms of quantity and dollar volume) and is consistent with positioning the Products and the Manufacturer's name as being of the highest quality, yet affordable to the general buying public. The Distributor shall provide the Manufacturer with its initial list prices for the Products and shall keep the Manufacturer fully informed by providing the Manufacturer with any new list sales prices within ten (10) days of any change in such list prices.	In most jurisdictions this (UPP) should be imposed as opposed to negotiated to minimise competition/antitrust concerns.
4. Orders.	
4.1 Purchase Orders. All orders for Products shall be submitted to the Manufacturer in the form of a Purchase Order which shall be sent by mail or by facsimile and shall set forth:	
(a) the identity of Product being purchased;	
(b) the quantity to be purchased;	
(c) the purchase price in accordance with Section 3.1;	
(d) the general shipping instructions including destination address;	
(e) a reference to the priority of this Agreement;	

(f) the delivery or performance schedules agreed with the Manufacturer; and	
(g) any other special information required by this agreement or by the circumstances of the particular order.	
Except as otherwise agreed by the Manufacturer, the Distributor's Purchase Orders must be received by the Manufacturer at least sixty (60) days prior to the requested delivery dates.	
4.2 Incorporation of Terms and Conditions. The terms and conditions of this Agreement shall be deemed incorporated into and made a part of each Purchase Order, and shall not be superseded by any Purchase Order except as expressly agreed to in a writing which specifies the extent to which such Purchase Order overrides the terms and conditions of this Agreement and which is signed by authorized representatives of both parties.	
4.3 [Alternative 1:] Firm Orders. Orders placed by the Distributor will be considered firm with no right of cancellation.	

[Alternative 2:] Cancellation. The Distributor shall not, without the Manufacturer's written consent, cancel any of its orders for the Products within thirty (30) days of the scheduled Delivery Date. The Distributor may, at any time, cancel an order thirty-one (31) days or more before the scheduled Delivery Date subject to a cancellation charge equal to the Manufacturer's actual documented non-recoverable costs incurred resulting from cancellation of such order.	
4.4 Placement and Acceptance of Orders.	
All Purchase Orders from the Distributor are subject to acceptance in writing by the Manufacturer at its Order Address, which may be granted or denied in its sole discretion. Each Purchase Order shall be deemed to be an offer by the Distributor to purchase the Products pursuant to the terms of this Agreement and, when accepted by the Manufacturer as herein provided, shall give rise to a contract between the Distributor and Manufacturer on the terms and conditions set forth herein. All acceptances and shipments are conditional upon the Distributor's compliance with the payment terms set forth in Article 6 below.	

5. Shipment.	
5.1 Shipping Costs. The Distributor shall pay all shipping costs EXWORKS, including but not limited to the cost of export packing, carriage to port of shipment, freight to the port of destination, and insurance, including war risk insurance if applicable. The Distributor shall be responsible for unloading the goods at port of destination, and for direct payment of lighterage and wharfage charges, customs charges, import duties, costs resulting from customs delays or work stoppages at the port of destination, and any other costs occurring after Delivery.	
5.2 Insurance. The Distributor agrees to insure each shipment of Products with a reputable insurer for the full invoice price of such shipment. Such insurance shall provide, at a minimum, for coverage of the Products from Delivery until title passes pursuant to Section 5.4. The Manufacturer shall have no obligation to deliver Products without receipt of a certificate of insurance from the Distributor evidencing such coverage and showing the Manufacturer as an additional named insured.	

5.3 Late or Partial Shipments. The Distributor acknowledges that the Manufacturer has a finite production capacity which will vary from time to time or which may be interrupted entirely and therefore the Manufacturer's responsibilities to ship orders to the Distributor are limited to best efforts and late shipments or partial shipments are permissible.	
5.4 Title to Products and Risk of Loss. [Alternative 1:] Title to the Products and risk of loss passes to the Distributor upon Delivery.	
[Alternative 2:] To secure the payment of all amounts due hereunder and the observance and performance of all the terms, provisions, agreements and covenants of this Agreement, the Manufacturer shall retain title to each Product sold to the Distributor under the terms of this Agreement until the earlier of the dates on which the Distributor shall have (a) resold the Products to a Customer or (b) made payment in full to the Manufacturer of all amounts due hereunder. Such retention of title shall operate to the maximum extent permitted under the law of the country in which the respective Product is physically located, and the Distributor shall comply with any formalities required to give effect thereto.	In the US, this is called Purchase Money Security Interest (PMSI). While it is a useful tool, it may be difficult to enforce, especially if the goods are sold to consumers. Moreover, to be effective against other creditors of the Distributor, the Manufacturer has to strictly follow certain steps. Experienced counsel with specific 'expertise' is required to effectively accomplish this.

6. Payment.	
6.1 Payment. [Alternative 1:] Payment shall be by irrevocable letter of credit in a form acceptable to the Manufacturer and issued or confirmed by a bank acceptable to or designated by the Manufacturer.	
[Alternative 2:] Payment shall be made no later than thirty (30) days after the Distributor is invoiced by the Manufacturer for Products, which shall not occur until after Delivery of such Products.	
6.2 Alternative Method of Payment. Notwithstanding the foregoing, a different method of payment or credit arrangement may be agreed to in writing by the parties in which case such other method of payment or credit arrangement will govern until otherwise determined by the Manufacturer.	
6.3 Currency. Distributor agrees to make all payments in U.S. currency.	Foreign-currency payment obligations are common in foreign trade, but Brazil has regulated FX execution mechanics; if performance/enforcement is expected in Brazil, noncompliance in remittance formalities can become a practical enforcement friction point.
6.4 Late Fees. If, for any reason, the Distributor does not pay any amounts due the Manufacturer pursuant to this Agreement, the Distributor shall pay late charges on such past due amounts at a monthly rate of one and one-half percent (1.5%) (or, if less, the maximum interest rate then allowed under applicable law).	Typically enforceable in the international B2B context, but if Brazilian law is applied, the rate may be litigated under local standards for interest/penalty reasonableness (usually not a 'deal breaker' but a recurring enforcement argument).

6.5 Credits for Returned Items or Disputed Amounts. In the event of any dispute arising over any part of an invoice or the total amount due under an invoice, all undisputed amounts shall be promptly paid by the Distributor in accordance with this Article 6.	
7. Advertisement.	
7.1 [Alternative 1:] Advertising Materials. The Distributor shall diligently advertise the Products in the Territory. The Manufacturer shall furnish the Distributor with reasonable quantities of the Manufacturer's brochures, sales literature, advertising copy and other materials in the English language, for use by the Distributor in preparing its own advertising materials. All expenses incurred by the Distributor in creating and preparing advertising materials and in advertising the Products shall be borne by the Distributor. The Distributor shall provide to the Manufacturer copies of all advertising materials concerning the Products, Trademarks or the Manufacturer which it shall create or prepare prior to any use thereof and shall not use the same without the prior written consent of the Manufacturer, which shall not unreasonably be withheld.	

[Alternative 2:] Media Plan. The Distributor and Manufacturer shall agree upon a media plan which shall establish a budget, select media outlets, set the frequency of advertising and otherwise define a program to advertise Products in the Territory.	Media plans requiring payment of marketing items must be carefully scrutinised by the manufacturer as they can lead to an inadvertent or accidental franchise, which raises additional layers of regulatory and compliance issues in several jurisdictions. Here, the agreement provides that 'all expenses associated with advertising the Products shall be borne by the Distributor'. As long as those expenses are *not* paid to the Manufacturer (and are paid to third-parties), this would reduce franchise law scrutiny, all else being equal.
Such media plan shall be agreed upon within thirty (30) days after the execution of this Agreement by both parties. All expenses associated with advertising the Products shall be borne by the Distributor. Notwithstanding the foregoing, all creative control shall remain exclusively with the Manufacturer and the Distributor shall not advertise, distribute any advertising materials regarding the Products or use the Trademarks except as provided for in the media plan developed with the Manufacturer.	
[Optional:] 7.2 Promotions. The Distributor agrees to develop and actively implement sales, promotion and merchandising programs, including those suggested by the Manufacturer and to participate in trade shows, fairs and exhibitions in the Territory where such participation can reasonably be expected to promote the Products.	

8. Customer Support.	
8.1 Maintenance. The Distributor agrees to provide maintenance and other customer support services to Customers in the Territory in accordance with standards established by the Manufacturer and communicated to the Distributor in writing from time to time. Without limiting the generality hereof, the Distributor shall have the following obligations in this respect: (a) To maintain at all times a sufficient staff of personnel who are fully trained and qualified to perform such support services; (b) To maintain inventories of spare parts which shall be sufficient to ensure timely maintenance of installed Products and, without limiting the generality hereof, to purchase an initial supply of spare parts, the content of which shall be reasonably defined by the Manufacturer; (c) To cooperate with the Manufacturer in dealing with any Customer complaints concerning the Products and to take any action reasonably requested by the Manufacturer to resolve such complaints; and (d) To cooperate with the Manufacturer in arranging for any Customer warranty service.	

8.2 Training. The sales and technical support functions in respect of Products sold to Customers shall be carried out by the Distributor. The Distributor shall identify from among its sales and technical personnel, individuals having the educational and professional qualifications required for competent performance of such functions. It shall designate from among those individuals an agreed number for training by the Manufacturer, all of whom shall be reasonably conversant in the English language. The Manufacturer will train such personnel at its facility in [location of training facility], U.S.A. or other facility as designated by the Manufacturer. There will be no charge for the initial training or the training materials, the contents of which will be determined by the Manufacturer. The Manufacturer will provide additional training at the Manufacturer's standard fees for such training, or at such other fees as may be established by mutual agreement. Except as otherwise agreed, all such training shall be in the English language. The Distributor will pay for all travel expenses related to such training, including airfare, meals, lodging and other living expenses.	Training should be optional or free of charge to avoid an inadvertent or accidental franchise, which, in several jurisdictions, attracts an additional layer of laws and compliance issues. In Brazil, for instance, any money flowing from the Distributor to the Manufacturer in excess of the bona fide wholesale price of the Products sold may be considered a 'fee' and a franchise is created. Preferably, training should be free of charge but mandatory, as optional training may lead to lack of training.

9. Additional Responsibilities of the Distributor. In addition to all other requirements and obligations set forth in this Agreement, the Distributor agrees to accept the responsibilities and obligations set forth below. [These are optional and shall be reviewed to choose those which apply.]	
9.1 Best Efforts. The Distributor agrees to devote its best efforts to the distribution, promotion, sale, and servicing of the Products in the Territory and to protect and enhance the reputation of the Manufacturer and the Products.	

9.2 Competitive Products. [Alternative 1:] The Distributor acknowledges that Products have an image for high quality and that it derives a benefit from being an authorized retailer with the right to sell such Products. To preserve this image for the highest quality and thereby enhance its own sales, and in consideration for the Manufacturer making available to the Distributor the Products at favorable prices, the Distributor agrees that during the term of this Agreement it shall not, either directly or indirectly, develop, produce, distribute or market products in the Territory which are competitive with existing Products or which are likely to adversely affect market opportunities in the Territory for future Products of the Manufacturer having functional characteristics similar to those of existing Products.	Overbroad vertical non-compete restrictions can trigger scrutiny under competition laws in many jurisdictions. In Brazil, for instance, such restrictions can attract scrutiny under Brazilian competition law (Lei 12.529/2011) and CADE practice, especially if the supplier has market power; this can affect enforceability and increase regulatory exposure.
[Alternative 2:] [If in a European Union country and a Nonexclusive Agreement] the Distributor agrees to notify the Manufacturer of any other manufacturer from which it is purchasing products competitive with the Products for resale to the Customers in the Territory during the term of this Agreement.	

9.3 Sole Source of Products. The Distributor agrees that it will only purchase Products from the Manufacturer or the Manufacturer's licensees authorized to sell Products to the Distributor in the Territory as confirmed by Manufacturer.	
9.4 Counterfeit or Improper Sales. The Distributor agrees to notify the Manufacturer immediately if it becomes aware of any counterfeit products of the Manufacturer's Products or unauthorized sales of the Products and to assist the Manufacturer at the Manufacturer's cost in its attempts, if any, to halt such conduct. The Manufacturer has the right, but not the obligation, to pursue any counterfeit or improper sales at its sole and absolute discretion.	
9.5 Investment in Capital. The Distributor represents and agrees that, upon the expiration or termination of this Agreement that it will be able to easily utilize any buildings, equipment, installation, furnishings, or supplies in which it invests or any specially-trained personnel that it employs to perform this Agreement in other activities in which it is or can reasonably become involved.	This reads as an ex ante waiver of investment/reliance-based protection; it is unlikely to override the mandatory protection of Article 473 of the Civil Code (sole paragraph) and may be challenged in Brazil (including 'adhesion contract' arguments where bargaining was limited).
9.6 Office and Employee Expenses. The Distributor agrees to maintain and pay all salary and other business expenses.	

9.7 Insurance. The Distributor shall procure and maintain continuously during the term hereof, comprehensive public liability insurance insuring both the Distributor and Manufacturer against claims for bodily injury, death, property damage and any other Liability arising out of or as a result of the Distributor's or the Distributor's Agent's activities. The Distributor shall not be required to purchase insurance coverage for any Liability resulting from the Manufacturer's negligence. Such insurance shall be for an amount that is reasonable and customary in the business; provided, however, that the Manufacturer may establish minimum amounts for such insurance by written notice to the Distributor. The Distributor shall provide to the Manufacturer a certificate of insurance evidencing such coverage and showing the Manufacturer as an additional named insured within ten (10) days after execution of this Agreement by both parties and prior to conducting any business pursuant to this Agreement. The Distributor's failure to send such certificate to the Manufacturer shall be considered a material breach of this Agreement.	

9.8 Minimum Order. The Distributor agrees that it will meet the Quarterly Minimum Purchase Requirement each Quarter for distribution in accordance with this Agreement. Failure to purchase the Quarterly Minimum Purchase Requirement during any Quarter after the first six (6) months of this Agreement shall constitute a material breach of this Agreement.	
9.9 Marketing Reports. Within five (5) days of the beginning of each Quarter, the Distributor shall submit to the Manufacturer (in a form designated by the Manufacturer) a written report including without limitation business trends in the Territory and Customer contacts. Once a year on the date determined by the Manufacturer and communicated to the Distributor in writing, the Distributor shall submit to the Manufacturer (in a form designated by the Manufacturer) a written report including without limitation production and market forecasts for the Products in the Territory for the following year.	
9.10 Sales Reports. Within five (5) days of the beginning of each month, the Distributor shall submit to the Manufacturer (in a form designated by the Manufacturer) a written sales report.	

9.11 Other Sales Records. The Distributor agrees to maintain and provide to the Manufacturer at its request complete records as to maintenance, performance and reliability of all Product units sold in the Territory.	
9.12 Business Leads. The Distributor agrees to investigate diligently all leads with respect to potential Customers referred to it by any source, including the Manufacturer.	
9.13 Inspection. The Distributor agrees to permit the Manufacturer to contact and/or visit Customers and to visit the Distributor's place of business and to inspect its inventories, service records, and other relevant documents upon reasonable notice.	
10. Additional Responsibilities of the Manufacturer. In addition to all other requirements and obligations set forth in this Agreement, the Manufacturer agrees to accept the responsibilities and obligations set forth below.	
10.1 Cooperation. The Manufacturer agrees to cooperate with the Distributor in the promotion and sale of the Products in the Territory.	

10.2 Sales Literature. The Manufacturer agrees to furnish the Distributor catalogs, sales bulletins, samples and engineering data adequate to describe the Products in the English language without charge. The Manufacturer will pay the shipping and mailing costs incurred in sending this material to the Distributor. Local taxes and import duties shall be paid by the Distributor. The Distributor agrees to translate such documents when necessary.	
10.3 Financial Statements. The Manufacturer, upon request, will furnish the Distributor its current financial statements as made public in the U.S.	
11. Duration and Termination.	
11.1 Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall expire on the Expiration Date, unless sooner terminated pursuant to Sections 11.2 through 11.4 below. There shall be no right to renew this Agreement.	

11.2 Immediate Termination. This Agreement shall terminate after a party gives written notice of the occurrence of any of the following events, which termination shall be effective as of the date of such notice: (a) Failure by the Distributor to comply with the requirements set forth in Articles 12 or 13 of this Agreement. (b) The bankruptcy or insolvency of either party or the appointment of a receiver or trustee for assets of either party. (c) Determination by the Manufacturer that a conflict of interest exists due to any agreement or other relationship between the Distributor and any competitor of the Manufacturer, which agreement or relationship has not been approved in writing by the Manufacturer. [If European Union country and nonexclusive agreement, delete everything after the word "exists" to conform to Section 9.2]. (d) Determination by the Manufacturer that the Distributor has lost key personnel who the Manufacturer deems critical to the continued effective representation of the Manufacturer in the Territory by the Distributor. (e) Determination by the Manufacturer that ownership or a controlling interest of the Distributor has changed.	In the US, the word 'determination' should be replaced with objective standards where possible to avoid ambiguity. Termination triggers based on unilateral subjective 'determination' (loss of key personnel, change of control and certain conflict-of-interest determinations), without objective criteria/cure, are vulnerable in Brazil as potestative conditions (Article 122 of the Civil Code) and/or the abuse of right (Article 187 of the Civil Code), creating enforceability uncertainty.

11.3 Thirty-Day Cure. This Agreement shall terminate thirty (30) days after a party gives the other party written notice of such other party's default of any of its material obligations under this Agreement (except those obligations governed by the previous section) and the other party's failure to cure such default within such thirty (30) days.	
11.4 Termination Without Cause. This Agreement shall terminate on the ninetieth (90th) day after written notice by one party to the other party of a desire to terminate the Agreement without cause.	This is an agreement with fixed duration. In the US, this clause should be eliminated because it converts an agreement with fixed duration to an agreement at-will that may be terminated on 90 days' notice; not ideal for a manufacturer that invests in a foreign jurisdiction and may be terminated on 90 days' notice. A fixed 90-day notice can be challenged in Brazil as insufficient where the Distributor made material, non-recoverable investments because Article 473 of the Civil Code (sole paragraph) requires notice compatible with the investments (fact-specific judicial/arbitral review).
11.5 Orderly Changeover. Within thirty (30) days of the effective date of the expiration or termination of this Agreement for any reason, the Distributor shall provide the Manufacturer with lists of Customers, location and purchasers of all Products sold which are still covered by the Warranty, current sales negotiations and other information reasonably necessary for an orderly changeover of distributorship arrangements in the Territory.	This operational obligation typically involves personal data (contacts and purchaser details). Without Lei Geral de Proteção de Dados (Brazil data protection law) governance, the compelled transfer of such data, especially cross-border, can generate compliance disputes and inhibit enforcement in practice.

11.6 Return of Materials. Upon the expiration or termination of this Agreement, the Distributor shall deliver immediately, at its expense, to the Manufacturer the originals and all copies of any Trade Secrets or Proprietary Information, as well as all demonstration equipment, sales literature, and other property of the Manufacturer which has been provided to the Distributor and which has not otherwise been disposed of in accordance with the Manufacturer's instructions.	
11.7 Effect on Prior Orders. [Alternative 1:] The expiration or termination of this Agreement shall not affect the rights and obligations of the parties that have vested prior to the effective date of such expiration or termination, including rights and obligations with respect to orders accepted by the Manufacturer prior to such effective date. Final settlement for such orders shall be on the same basis as though this Agreement were continuing, and any obligations of one party to the other with respect to such orders shall remain in full force and effect until fully paid or discharged.	

[Alternative 2:] The Manufacturer shall have the right at its option to (a) cancel any or all accepted Purchase Orders which provide for delivery after the effective date of termination, and/or (b) repurchase all or any part of the inventories of Products in the Distributor's possession as of the termination date at the Manufacturer's invoiced price to the Distributor for such products, less depreciation calculated from the Delivery Date on a twenty-four (24) month, straight-line basis and less any appropriate amount for excessive wear and tear. The Manufacturer shall exercise its option under this subsection by notifying the Distributor in writing no later than thirty (30) days after the effective termination date.	
11.8 Maintenance. If requested in writing by the Manufacturer, the Distributor shall continue to maintain Products installed at Customer sites in the Territory for a period of up to twelve (12) months following termination. During such period, the Manufacturer shall continue to supply to the Distributor, on the same terms and conditions as applied prior to the termination, all hardware, software upgrades and spare parts that are required to enable the Distributor to provide such maintenance.	

11.9 No Compensation. In the event of termination of this Agreement for any reason in accordance with the terms hereof, the parties hereby agree that, without prejudice to any other remedies which either party may have in respect of any breach of this Agreement, neither party shall be entitled to any compensation or like payment from the other as a result of such termination.	A blanket waiver of termination compensation is likely to be unenforceable in Brazil if Article 473 of the Civil Code (sole paragraph) is implicated (mandatory rule). Depending on the facts, parties may also face arguments for applying Lei 4.886/65 (commercial representation) by analogy, including termination-indemnity expectations.
12. Compliance with Laws.	
12.1 U.S. Export Laws. The Products may require a license for export from the U.S. Government which demands advance disclosure of the ultimate consignee and all parties to the sale, and prohibits diversion, transshipment, or re-exportation out of the Territory contrary to U.S. law and regulations by any party. The Distributor hereby agrees to furnish all documentation required by the U.S. Government in connection with obtaining any required export license, and certifies that unauthorized diversion, transshipment or re-exportation of the Products in violation of the export license or any applicable law will not be permitted.	
12.2 Import Laws. The Distributor shall obtain all authorizations required to import the Products into the Territory and shall obtain any other regulatory approvals (except the export license) required.	

12.3 Transfer of Technical Data. The Distributor represents and warrants that it will not transfer, directly or indirectly, any technical information received from the Manufacturer, nor any product produced from such technical information, except as set forth in this Agreement and in accordance with the Export Administration Act (as amended from time to time), or any successor provision or any other applicable laws, rules, or regulations pertaining to the export of data, information or products, as in effect in the United States or the Territory.	
12.4 Registration. The Distributor agrees to submit this Agreement to governmental authorities in the Territory for approval or registration as or where required by law, and to obtain such approval or registration within thirty (30) days after the Execution Date and prior to conducting any business. The Distributor shall pay all costs and expenses for obtaining such registration or approval. Within sixty (60) days after the Execution Date, the Distributor shall furnish the Manufacturer with written evidence that such approval or registration has been accomplished. Any translation of this Agreement from the English language to another language must be verified and approved by the Manufacturer prior to registration or filing with the governmental authorities in the Territory.	Standard distribution agreements are generally not subject to 'government approval/registration' in most jurisdictions. For instance, in Brazil an overbroad duty here creates a technical default lever that may be inapplicable. Separately, translation approval as a condition can create operational blockage and disputes over alleged noncompliance.

12.5 Foreign Corrupt Practices Act. The Distributor hereby specifically represents and warrants that it will comply with all laws relating to the conduct of business practices which prohibit any gratuities or inducements. In particular, the distributor acknowledges that the Manufacture is subject to certain United States laws, including but not limited to the Foreign Corrupt Practices Act of 1977 and any amendments thereto, which apply to activities carried out on the Manufacturer's behalf outside the United States and agrees neither to take nor omit to take any action if such action or omission, as the case may be, might cause the Manufacturer to be in violation of any such law. Upon written notice from the Manufacturer, the Distributor shall provide such information as the Manufacturer shall reasonably consider necessary to verify compliance by the Distributor with the provisions of this section.	Brazil's Law 12.846/2013 imposes strict corporate liability for corruption-related acts; an FCPA-only clause can be viewed as incomplete for Brazil-facing compliance allocation.

12.6 Other Laws. In addition, the Distributor shall comply with all other applicable laws, regulations, or other requirements of any countries which affect this Agreement and the Distributor's performance hereunder and, without limiting the generality of the foregoing, shall (a) furnish all documentation required by any such other country in connection with the exportation or importation of the Products and (b) maintain all registrations with governmental agencies, commercial registries, chambers of commerce, or other offices which may be required under local law in order to enable it lawfully to conduct its business and perform its obligations under this Agreement.	
12.7 Materiality. Non-compliance by the Distributor with the provisions of this Article 12 shall constitute a material breach of this Agreement.	
12.8 Indemnification. The Distributor agrees to indemnify and hold harmless the Manufacturer from losses and penalties resulting from the Distributor's failure to comply with this Article 12.	
13. Intellectual Property Rights.	
13.1 Trademarks.	

(a) The Manufacturer hereby grants to the Distributor a non-exclusive, non-transferable, and royalty-free right and license to use the Trademarks in connection with the sale, rental, lease, or other distribution, promotion, advertising and maintenance of the Products for so long as such Trademarks are used by the Distributor in accordance with the Manufacturer's standards, specifications and instructions, but in no event beyond the term of this Agreement. The Distributor shall afford the Manufacturer reasonable opportunities during the term hereof to inspect and monitor the activities of the Distributor in order to ensure the Distributor's use of the Trademarks in accordance with the Manufacturer's standards and instructions.	

(b) The Distributor shall acquire no right, title or interest in such Trademark other than the foregoing limited license and all rights in the Trademarks shall be in the name of the Manufacturer, and the Distributor agrees not to use any Trademarks as part of the Distributor's corporate or trade name or permit any third party to do so without the prior written consent of the Manufacturer. The Distributor further agrees that it will not in any manner represent that it has ownership of the Trademarks and it will not register or attempt to register any such Trademarks under the laws of any jurisdiction, and will not at any time do, or cause to be done, any act or thing contesting, or in any way impairing or tending to impair, any part of the Manufacturer's right, title, and interest in such Trademarks, whether or not they are registered in the jurisdictions in which the Distributor is located or does business.	

(c) The Manufacturer shall use its best efforts to register the Trademarks in any jurisdictions within the Territory in which the Manufacturer, in its sole discretion, determines such registration to be necessary or useful to the successful distribution of the Products. In addition, in the event the Manufacturer believes that it is advisable to enter into a registered user agreement, effect any filing or obtain any governmental approval or sanction for the use by the Distributor of any of the Trademarks pursuant to this Agreement, the parties shall fully cooperate in order to do so. All expenses relating to the registration of the Trademarks in the Territory, as well as the making of filings or obtaining any governmental approvals for the use by the Distributor of the Trademarks, shall be borne by the Distributor.	Trademark license formalities and INPI (Brazil Patent and Trademark Office) recordation affect third-party opposability and practical enforceability in Brazil. Also, a strict prohibition on distributor enforcement can create friction where Brazilian law recognises certain licensee standing concepts, especially if the owner delays enforcement.

(d) The Distributor shall promptly notify the Manufacturer of any use by any third party of the Trademarks or any use by such third parties of similar marks which may constitute an infringement or passing off of Trademarks. The Manufacturer reserves the right in its sole discretion to institute any proceedings against such third-party infringers and the Distributor shall refrain from doing so. The Distributor agrees to cooperate fully with the Manufacturer in any action taken by the Manufacturer against such third parties, provided that all expenses of such action shall be borne by the Manufacturer and all damages which may be awarded or agreed upon in settlement of such action shall accrue to the Manufacturer.	
(e) The Distributor agrees to use the Trademarks so as to assure their continued validity and enforceability and in strict compliance with all applicable laws and regulations.	

In addition, the Distributor agrees not to (i) remove or alter any patent numbers, trade names, trademarks, notices, serial numbers, labels, tags or other identifying marks, symbols or legends affixed to any Products or containers or packages, (ii) affix to the Products any other trade name or trademark, or (iii) use the Trademarks on any other products or articles, advertisement, business card, sales brochure, or other document available to the Customers or the public without the Manufacturer's prior written approval.	
13.2 Proprietary Information and Trade Secrets.	
(a) The Distributor acknowledges that it and the Distributor's Agents will be entrusted with trade secrets and Proprietary Information that the Manufacturer has developed and has a legitimate business interest in protecting. Pursuant therewith, the Distributor agrees to the following provisions.	

(b) The Distributor will treat as confidential and will not, without the prior written approval of the Manufacturer, use (other than in the performance of its duties hereunder), publish, disclose, copyright or authorize anyone else to use, publish, disclose or copyright, (i) any information which constitutes Trade Secrets during the term of this Agreement and subsequent thereto, or (ii) Proprietary Information either during the term hereof or for three (3) years after expiration or termination of this Agreement.	One-way confidentiality is not inherently invalid, but it can be challenged under objective good faith where the Distributor must disclose sensitive market/customer data. Also, the agreement lacks LGPD allocation, which is often the real enforcement/compliance pinch point for these data flows.
(c) The Distributor further agrees that it will require each of the Distributor's Agents to be bound by the requirements of this Agreement and that, upon the request of the Manufacturer, the Distributor will provide evidence satisfactory to the Manufacturer of having fulfilled such requirement to the Manufacturer.	
13.3 Injunctive Relief. The Distributor agrees that its and any of the Distributor's Agents' actual or threatened breach of the provisions of Section 13.1 or 13.2 shall constitute irreparable harm to the Manufacturer, and the Manufacturer, in addition to all other rights, shall be entitled to seek an injunction restraining the Distributor or such person therefrom.	

Nothing herein shall be construed as prohibiting the Manufacturer from pursuing any other available remedy for such breach or threatened breach, including the recovery of damages from the Distributor or such person. This provision shall remain in full force and effect in the event the Distributor or such person should claim that the Manufacturer violated any of the terms of this Agreement and any other claims shall be pursued independently of the covenants set forth in this Section 13.3. 97. [*Optional: The Manufacturer does not have to agree to indemnify the Distributor for patent infringement, only if requested by the Distributor*]	

13.4 Patent Indemnification.	
(a) The Manufacturer shall, at its own expense, defend any suit instituted against the Distributor which is based on an allegation that any Products manufactured by the Manufacturer and sold to the Distributor hereunder constitute an infringement of any patent of any country in the Territory and shall indemnify the Distributor against any award of damages and costs made against the Distributor by a final judgment of a court of last resort if it is determined therein that any such Product constitutes an infringement of any patent of any country in the Territory, provided that the Distributor shall have given the Manufacturer timely notice in writing of any notice or claims of infringement and permitted the Manufacturer through the Manufacturer's counsel to defend the same and given the Manufacturer all available information, assistance and authority to enable the Manufacturer to assume such defense.	
The Manufacturer shall have control of the defense of any such suit, including appeals from any judgment therein and any negotiations for the settlement or compromise thereof, with full authority to enter into a binding settlement or compromise.	

(b) In the event that any Product is held to infringe and its use is enjoined, the Manufacturer shall at its option and expense (i) procure for the Distributor the right to continue using such Product, (ii) provide the necessary instructions and documentation to modify such Product so that it no longer infringes, or (iii) grant the Distributor a credit for such Product upon its return to the Manufacturer, allowing for reasonable depreciation for deterioration, damage and obsolescence.	
(c) Notwithstanding the provisions of Section 13.1 hereof, the Manufacturer shall have no Liability whatsoever to the Distributor with respect to any patent infringement or claim thereof which is based upon or arises out of (i) the use of any Product in combination with other equipment not recommended or supplied by the Manufacturer if such combination causes or contributes to the infringement, (ii) the use of any Product in a manner for which it was neither designed nor contemplated, or (iii) any modification of any Product by the Distributor or any third party which causes the Product to become infringing.	

(d) Section 13.4 hereof states the entire liability of the Manufacturer for or arising out of any patent infringement or claim thereof with respect to Products furnished to the Distributor under this Agreement.	
14. Dispute Resolution.	National courts become more relevant: In order to provide for an adequate forum for international M&A, trade and commerce litigation, some state court systems provide for adequate adjudication in the English language and with procedural advantages (eg, preliminary case management hearings). Germany, for example, introduced a system of so-called 'Commercial Courts und Commercial Chambers'.
14.1 Negotiation. The parties will first attempt to resolve any Dispute which arises in connection with this Agreement by negotiation by an officer of each company not directly involved with the subject matter of this Agreement.	

14.2 Arbitration. [*Use this arbitration clause only if willing to arbitrate under AAA rules:*] If the parties cannot resolve the Dispute through negotiation within thirty (30) days or such longer period as may be agreed upon by the parties in writing, the parties agree and consent to resolve the Dispute solely through arbitration in accordance with International Arbitration Rules of the American Arbitration Association ("AAA") at the offices of the AAA in [*location for Arbitration*], U.S.A. in the English language. Each party shall appoint one arbitrator with the two arbitrators thus appointed selecting a third arbitrator. The arbitrators shall be empowered to resolve all Disputes, whether in contract or in tort, and to award any remedies authorized by this Agreement and any applicable statute or common law.	In jurisdictions such as in Germany, contractual deviations from the legislative framework, such as the referral of disputes to private bodies such as arbitration centres, may require compliance with formal requirements and such 'deviating' provisions may even prove ineffective, if in direct conflict with compelling law/*ius cogens* governing the admissibility of 'boiler plate' drafting. It is worth mentioning that, recently, the German Federal Court of Justice upheld an arbitration clause despite its context of general terms and conditions (9 January 2025, file No I ZB 48/24).
All arbitration proceedings, including all evidence and statements, shall be confidential and shall not be used or disclosed for any other purpose. Each party shall pay its own attorneys' fees and expenses; all other expenses of arbitration shall be equally divided between the parties; provided, however, the arbitrators shall have the authority to assess any of the foregoing costs against any party acting in bad faith.	

The award of the arbitrators shall be final and binding and is the sole and exclusive remedy of the parties regarding any Disputes hereunder except that nothing contained in this Agreement shall prohibit either party from seeking injunctive relief or equitable remedies in a court of competent jurisdiction of pursuing other equitable remedies. A judgment on the award may be entered in any court having jurisdiction thereof. The award shall be in U.S. Dollars and shall earn interest from the date of the award until satisfied in full at the United States prime interest rate as reported in the Wall Street Journal on the business day immediately preceding the date of the award. Should either party bring any legal action against the other with respect to any claim required to be arbitrated under this Agreement by any method other than arbitration, the other party shall be entitled to recover from such party all damages, costs, expenses and attorneys' fees incurred as a result of such action.	

[*Use if unwilling to use AAA*.] Any Dispute which is not resolved by negotiation as provided above shall be referred to and finally resolved by arbitration under the rules of the London Court of International Arbitration ("LCIA"), which rules are deemed to be incorporated by reference, in London, England, in the English language. Each party shall appoint one arbitrator with the two arbitrators thus appointed selecting a third arbitrator.	Note that the LCIA Arbitration Rules were amended in 2020.

The arbitrators shall be empowered to resolve all Disputes, whether in contract or in tort, and to award any remedies authorized by this Agreement and any applicable statute and common law. All arbitration proceedings, including all evidence and statements, shall be confidential and shall not be used or disclosed for any other purpose. Each party shall pay its own attorney's fees and expenses; all other costs of arbitration shall be equally divided between the parties; provided, however, that the arbitrators shall have the authority to assess any of the foregoing costs against any party acting in bad faith. The award of the arbitrators shall be final and binding and is the sole and exclusive remedy of the parties regarding any Disputes hereunder, except that nothing contained in this Contract shall prohibit either party from seeking injunctive relief or equitable remedies in a court of competent jurisdiction or pursuing other equitable remedies.	

The award may be confirmed and enforced in any court of competent jurisdiction. The award shall be in U.S. dollars and shall earn interest at the LIBOR (editors note: please see comments) rate (on the business day immediately preceding the date of the award) from the date of the award until the award is satisfied in full. The parties agree that if any question of law arises in the course of arbitration or with respect to any award made by the arbitral tribunal, no appeal or application shall be made to any court including without limitation appeal to the High Court under Section 1 of the Arbitration Act of 1979 or application under Section 2 of said Act.	The London Interbank Offered Rate (LIBOR) was phased out in 2021 and replaced with a number of alternatives including the Secured Overnight Financing Rate (SOFR), Euro Short-Term Rate (€STR) and Sterling Overnight Index Average (SONIA). We have chosen to include the LIBOR reference to illustrate the point that all sources should be checked for updates. The enforcement of foreign awards often requires court approval. For instance, a foreign award in Brazil requires Superior Court (Superior Tribunal de Justiça or STJ) recognition steps.
14.3 Governing Law. This Agreement shall be governed by and construed according to the laws.	Foreign governing law is generally respected for international contracts, but mandatory Brazilian rules (consumer protection, competition, tax/FX, LGPD and civil code good faith/termination protections) may apply regardless, where performance/assets are in Brazil. CISG exclusion is generally permissible, but if Brazilian law is found applicable, the CISG is the default sale-of-goods regime unless effectively excluded. A US forum submission clause does not necessarily prevent proceedings in Brazil if Brazilian procedural rules support jurisdiction.
[*OPTION 1 (IF UNDER AAA RULES)*:] of the State of [state of governing law], U.S.A., not including its conflict of laws rules or principles, and applicable U.S. federal laws.	'Not including' should be eliminated if the parties intend not to go through the conflict of laws rules; it is most likely that, in the US, the governing law is the law where the Products are sold by the Distributor; not always an ideal situation for the Manufacturer. Plus, there is mandatory US law that applies anyway, such as for accidental or inadvertent franchise because the Manufacturer is a New York entity. 'Not including' should be replaced with 'without regard to'.
[*OPTION 2 (IF UNDER LCIA RULES)*:] of England and Wales, not including the rules and principals regarding conflict of laws.	

[*ADD REMAINING TERMS*:] The United Nations Convention on the International Sale of Goods shall not apply to this Agreement. Subject to the foregoing provisions in this article, the Distributor hereby answers to submit to the jurisdiction of the state and federal courts in the State of [state of governing law], US.	Application of the CISG may in fact have advantages, especially in jurisdictions with strict limits on boilerplate limitations for warranties and liability, such as German law. For effective drafting, coordination with the choice-of-law and contractual-venue provisions is advised, as well as submission to arbitration (instructive: Bundesgerichtshof (German Federal Court of Justice), 9 Jan 2025, file No I ZB 48/24)).

15. Warranty	Jurisdictions like Germany distinguish between warranties (with fault being relevant) and guarantees (absolute).
15.1 Warranty or Products. The Manufacturer warrants for a period of [warranty period] after the date of shipment of the Products by the Manufacturer that such Products shall be free from defects in design, material and workmanship. The Manufacturer's sole obligation in the event of a breach of such warranty shall be to repair or replace all defective Products or parts. In no event shall the Manufacturer have any responsibility or bear any Liability for the cost of labor for the repair of any defective Products or parts, the removal of defective parts or the installation of replacement parts. All costs of shipment to the Distributor any repaired or replaced Products or parts shall be borne by the Manufacturer. If and as requested by the Manufacturer, the Distributor shall return at its cost all parts replaced under the said warranty to the Manufacturer within thirty (30) days after such replacement. All such replaced parts shall become the property of the Manufacturer upon their replacement.	

15.2 Claims. Warranty claims hereunder must be made promptly and in writing; must recite the nature and details of the claim, the date the cause of the claim was first observed and the serial number of the Product concerned; and must be received by the Manufacturer no later than thirty (30) days after the expiration of the warranty period.	
15.3 Exclusions from Warranty. The Manufacturer shall have no obligations under the warranty set forth in Section 15.1 in the event that:	
(a) Repair or replacement of the Products was necessitated in whole or in part by catastrophe or due to damage or mishandling by the Distributor, its customer or any other party who is not an employee or representative of the Manufacturer;	
(b) The Product or part was maintained or repaired other than by an authorized employee or representative of the Manufacturer or Distributor or was modified in any manner without the prior written consent of the Manufacturer; or	
(c) The Product or part was properly used or maintained in accordance with the Manufacturer's then-applicable operating and/or maintenance manuals, whether by the Distributor or its customers.	

15.4 No Warranty on Software. All software provided to the Distributor hereunder is on an "as is" basis without warranty of any kind.	
16 LIMITATION OF LIABILITY. EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 15, THE MANUFACTURER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO THE DISTRIBUTOR, CUSTOMERS AND/OR SUBDISTRIBUTORS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OF NON-INFRINGEMENT.	

FURTHERMORE, UNDER NO CIRCUMSTANCES SHALL THE MANUFACTURER BE RESPONSIBLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATING TO THE USE OF ANY ITEMS OR SERVICES FURNISHED, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, CONTRACT, TORT OR OTHER LEGAL THEORY AND REGARDLESS OF THE CAUSES OF SUCH LOSS OR DAMAGES OR WHETHER ANY OTHER REMEDY PROVIDED HEREIN FAILS, NOR SHALL THE MANUFACTURER'S TOTAL LIABILITY EXCEED AN AMOUNT EQUAL TO THE TOTAL AMOUNT PAID BY THE DISTRIBUTOR TO THE MANUFACTURER FOR PRODUCTS PURSUANT TO THIS AGREEMENT.	
17. Additional Indemnification. Each party shall indemnify and hold the other party harmless, including their directors, officers, employees, agents, subsidiaries, affiliates, subcontractors and assignees, or any of them, from and against any Liability occasioned by, arising out of, resulting from, caused by, or directly or indirectly relating to this Agreement, for which the other party is neither wholly nor contributorily responsible.	Overbroad 'relating to' indemnities can be treated as vague in civil law adjudication, creating scope disputes (third-party versus first-party losses) and uncertainty when paired with liability caps; they also do not displace statutory consumer/product exposure in Brazil.

18. Miscellaneous.	
18.1 Force Majeure. The Manufacturer will exercise every reasonable effort to meet any quoted or agreed upon shipment date or dates. The Manufacturer shall not, however, be liable for any loss or damage, including consequential damages, due to delays or failure to ship resulting from any cause beyond its reasonable control, such as, but not limited to, securing necessary export licenses, compliance with government laws or regulations, acts of God, acts or omissions of the Distributor, acts of civil or military authority, judicial action, defaults of vendors, labor disputes, failure or delays in transportation, embargoes, wars or riots, the inability of the Manufacturer or its vendors to secure adequate material, labor or facilities, or the inability of carriers to make scheduled deliveries.	Pandemic events were considered unpredictable/an act of God in the past, especially in many civil law traditions; with unfortunate experience of the given likelihood, drafting more detailed clauses has become more common in common law tradition. Under Article 393 of Brazil's Civil Code, force majeure/fortuitous event is a statutory defence for any obligor; a one-sided clause may not prevent a Brazilian law defence by the Distributor, causing mismatch between the written clause and enforceable outcomes.
18.2 No Waiver of Rights. A failure by one of the parties to this Agreement to assert its rights for or upon any breach of this Agreement shall not be deemed a waiver of such rights, nor shall any such waiver be implied from the acceptance of any payment. No waiver in writing by one of the parties hereto, with respect to any right, shall extend to or affect any subsequent breach, either of like or different kind, or impair any right consequent thereon.	

18.3 Agreement. This Agreement constitutes the entire Agreement between the Manufacturer and the Distributor and supersedes any prior or contemporaneous agreements between the Manufacturer and Distributor whether written or oral.	
18.4 Amendments. No agreement varying or extending the terms of this Agreement shall be binding on either party unless covered by an addendum signed by an authorized representative of each Party.	
18.5 Non-Assignable. This Agreement and/or the rights granted hereunder shall not be assignable or transferable by the Distributor, directly or indirectly, in whole or in part without the written consent of the Manufacturer.	
18.6 Notices and Other Information. All notices given pursuant to this Agreement shall be in the English language. Notices shall be deemed effective on the day they are dispatched by certified air mail or express courier requiring signature on receipt to the other party at such party's Notice Address.	Regarding 'English', see comment 18.14.

18.7 Severability of Provisions. The invalidity under applicable law, regulations, or other governmental restrictions or prohibitions of any provisions of this Agreement shall not affect the validity of any other provisions of this Agreement, and in the event that any provision hereof be determined to be invalid or otherwise illegal, this Agreement shall remain effective and shall be construed in accordance with its terms as if the invalid or illegal provision were not contained herein.	
18.8 Effective Date. This Agreement shall become effective as of the Effective Date upon acceptance in writing by the Manufacturer at its office in [place of acceptance], U.S.A.	
18.9 Gender. As used herein, the singular shall include the plural and the plural may refer to only the singular. The use of any gender or the terms "it" or "its" shall be applicable to all genders, corporations, partnerships, and other entities.	

18.10 No Third-Party Benefit. Nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, or corporation, other than the parties hereto, any remedy or claim by reason of this Agreement or any term, covenant or condition hereof, all of which shall be for the sole and exclusive benefit of the parties hereto.	
18.11 Survival. All provisions which would naturally survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.	
18.12 Headings. The headings as to contents of particular sections are inserted only for convenience and shall not be construed as part of this Agreement or as a limitation on the scope of any terms or provisions of this Agreement.	In some jurisdictions, such as Germany, boilerplate declarations intended to dictate certain interpretation rules may not be upheld.

18.13 Publicity. This Agreement is confidential and neither party shall issue press releases or engage in other types of publicity of any nature dealing with the commercial and legal details of this Agreement without the other party's prior written approval, which shall not be unreasonably withheld. Approval of such disclosure shall be deemed to be given to the extent such disclosure is required to comply with governmental rules, regulations or other governmental requirements. In such event, the disclosing party shall furnish a copy of such disclosure to the other party.	Depending on the particular business, non-disclosure agreements (NDAs) are in place and provide for more detail.
18.14 Counterparts. This Agreement may be executed in two or more counterparts in the English language, and each such counterpart shall be deemed an original hereof. In case of any conflict between the English version and any translated version of this Agreement, the English version shall govern. All correspondence, documents and communications of any kinds made under this Agreement shall be made in the English language.	Regarding 'All… communications', actual practice should be kept in mind: where the language on 'working level' might deviate from time to time, the Parties might want to provide for a second contractual language in order to safeguard the validity of important contractual communications, such as deadlines, warnings and terminations.
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year shown below.	
[NAME OF DISTRIBUTOR:] BY:	
NAME:	
TITLE:	
[NAME OF MANUFACTURER:] BY:	
NAME:	
TITLE:	

EXHIBIT A

DEFINITIONS

"Annual Minimum Purchase Requirement" shall mean the amount set forth in Item 7(b) of the Term Sheet.

"Agreement" shall mean the agreement between the Manufacturer and Distributor, and all the exhibits attached hereto.

"Customers" shall mean the actual or potential end-users of the Products who purchase the Products in the Territory.

"Delivery" shall mean the time when Products are made available to the Distributor at the Manufacturer's facility in the U.S.A. or abroad, as determined by the Manufacturer.

"Discount" shall mean the discount specified in Item 5 of the Term Sheet.

"Dispute" shall mean any claim or controversy arising out of this Agreement, or the breach, termination or validity thereof involving either of the parties or its affiliates, and the officers, directors and employees thereof, including any claims or controversies that could otherwise be submitted to a court of competent jurisdiction.

"Distributor" shall mean the party identified in the first paragraph of the Agreement above as the Distributor.

"Distributor's Agents" shall mean the Distributor's shareholders, officers, directors and employees who act on behalf of the Distributor with respect to the Agreement.

"Effective Date" shall mean the date specified in Item 1 of the Term Sheet or, if later, the date on which the Distributor has received all necessary government approvals in the Territory for the performance of its obligations hereunder and for the remittance of funds to the Manufacturer.

"Expiration Date" shall mean the date specified in Item 2 of the Term Sheet.

"Liability" shall mean any and all liability, losses, damage, expenses (including attorneys' fees), costs, claims, suits, demands, actions, causes of action, proceedings, judgments, assessments, and deficiencies and charges.

"Manufacturer" shall mean [name of manufacturer], a [state of incorporation], U.S.A. corporation.

"Notice Address" shall be the address of each party as set forth in Item 8 of the Term Sheet to which the other party shall send notice.

"Order Address" shall be the address for placing orders as set forth in Item 7 of the Term Sheet.

"Product" or **"Products"** shall mean the products manufactured by the Manufacturer under its Trademarks that the Manufacturer shall make available to the Distributor from time to time for distribution in accordance with the Term Sheet, or such other address as designated in writing by the Manufacturer.

"Product" or "Products" shall mean the products manufactured by the Manufacturer under its Trademarks which the Manufacturer shall make available to the Distributor from time to time for distribution in accordance with the terms and conditions of the Agreement, including, but not limited to, those products described in Item 4 of the Term Sheet. The Products specifically exclude, without limitation, [products excluded].

"Proprietary Information" shall mean any and all information, whether or not in tangible form, of a confidential, proprietary, or secret nature belonging to the Manufacturer or licensed by it, other than Trade Secrets, which is material to the Manufacturer and not generally known by the public, including all information annotated by a legend, stamp, or other written identification as "Proprietary Information".

"Purchase Orders" shall mean the written purchase orders used by the Distributor to submit orders for Products to the Manufacturer.

"Quarter" shall mean each three-month period beginning on January 1, April 1, July 1, and October 1, during the term of the Agreement, provided that the first Quarter shall consist of the period from the Effective Date to the sooner of March 31, June 30, September 30, or December 31.

"Quarterly Minimum Purchase Requirement" shall be that amount set forth in Item 6(a) of the Term Sheet.

"Suggested International Wholesale Prices" shall mean those prices for the Products as set forth in Exhibit C.

"Term Sheet" shall mean the Term Sheet attached hereto as Exhibit B. "Territory" shall mean the territory specified in Item 3 of the Term Sheet.

"Trade Secret" shall mean any and all information, whether or not in tangible form, belonging to the Manufacturer or licensed by it that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and that is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Without limiting the generality of the foregoing, Trade Secrets shall include, but are not limited to, marketing plans, price lists, product costs, product strategies, technical or nontechnical data, formulae, techniques, drawings, designs, processes, financial data, financial plans, product plans, marketing plans, advertising plans, lists of actual or potential customers or suppliers, and related items.

"Trademark" shall mean any and all trademarks, logo types and trade names of the Manufacturer including, but not limited to, those names listed in Item 11 of the Term Sheet as the same may be modified by the Manufacturer from time to time to include additional trademarks, logo types and trade names.

EXHIBIT B

TERM SHEET

EFFECTIVE DATE OF AGREEMENT: ____

EXPIRATION DATE OF AGREEMENT: ____

TERRITORY OF THE DISTRIBUTOR: ____

____

____

PRODUCTS: ____

____

DISCOUNT: Percent (__________%) off the Suggested International Wholesale

Prices. MINIMUM PURCHASE REQUIREMENT: ____

A.	QUARTERLY	B. ANNUAL
Year 1: U.S.	____________________$	X ____________________$
Year 2: U.S.	____________________$	X ____________________$
Year 3: U.S.	____________________$	X ____________________$
Year 4: U.S.	____________________$	X ____________________$
Year 5: U.S.	____________________$	X ____________________$

ADDRESS FOR PLACEMENT OF ORDERS: ____

SERVICE OF NOTICE: ____

Manufacturer's Address: ____

Distributor's Address: ____

TRADEMARKS: ____

____

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