

# DISTRIBUTOR AGREEMENT

This Distributor Agreement (the "Agreement") is made between Hsin Ten Enterprise USA, Inc. ("HTE USA), a New York corporation with offices at 25 S Service Rd, Ste 220, Jericho, NY 11753, and the distributor ("Distributor") identified on the application form submitted herewith. WHEREAS, HTE USA is engaged in the manufacture and sale of products, accessories and services which are described in its manual ("Products") under various trademarks; and WHEREAS, HTE USA desires to sell the Products to nonexclusive independent Distributors who will maintain HTE USA's high standards and the integrity of the Products, promote the good name of HTE USA's Products, and abide by all applicable laws and regulations and the highest ethical standards in selling the Products; and WHEREAS, HTE USA desires to appoint the Distributor as a nonexclusive independent contractor for HTE USA, and the Distributor desires to undertake the duties of a nonexclusive independent contractor for HTE USA, upon the terms and conditions set forth herein. NOW, THEREFORE, the parties hereto mutually agree as follows:

**SECTION 1. APPOINTMENT.** HTE USA hereby appoints the Distributor and the Distributor hereby accepts appointment as a nonexclusive independent agent authorized to sell the Products on the terms and conditions contained in the Agreement, the Policies and Procedures and Compensation Plan which are incorporated herein by reference and made a part of the Agreement.

**SECTION 2. RELATIONSHIP OF PARTIES.** The Distributor is an independent contractor and not an employee of HTE USA and all obligations of the Distributor performed hereunder shall be fulfilled as an independent contractor. In addition, except as specifically provided herein, the Distributor is not a representative or agent of HTE USA for any purpose whatsoever and has no power or authority to incur any debt, obligation or liability on behalf of HTE USA.

- 2.1 Except as otherwise provided, HTE USA neither has nor reserves any right or power to exercise any direction, control or determination over the manner, means or methods of the Distributor's activities and objectives in his operations, other than to review the sales results of the Distributor. Unsatisfactory sales results may result in termination of this Agreement pursuant to Section 7.
- 2.2 As an independent contractor, the Distributor is responsible for filing all necessary federal, state and local tax returns and paying all applicable taxes. The Distributor will not be treated as an employee with the respect to any services for federal, state and local tax purposes and warrants that he understands his federal, state and local tax obligations.
- 2.3 The Distributor understands that he is not an employee of HTE USA, that HTE USA is not obligated to provide any benefits to him, and that he is not entitled to any benefits except such benefits as HTE USA chooses to provide to Distributors. The Distributor further understands that he is not entitled to any compensation in connections with the Agreement except for the commission payments provided under the Compensation Plan.
- 2.4 The Distributor shall not sell the Products, nor shall sales, services or repair work be subcontracted for or with, or sales commissions shared with, or paid to, non authorized parties.
- 2.5 The Distributor shall not, directly or indirectly, promote, represent, distribute, offer for sale, sell or purchase for resale any products which compete with the Products.
- 2.6 All sales promotion expenses, selling expenses and any other incidental expenses incurred by the Distributor in selling the Products, including, but not limited to, transportation costs and repair and servicing costs for any Products used by the Distributor for demonstration purposes, are the sole responsibility of the Distributor.
- 2.7 **Important Notice:** All income examples and illustrations found in the HTE USA Compensation Plan are included for illustration and explanatory purposes only. They are intended to show how the HTE USA program functions and how payments within the structure of the Compensation Plan are calculated. In no way do these explanations and illustrations represent actual, historical examples of specific Distributors or groups. They are not put forward as typical expectations for Distributors and group members. Nor are they intended to suggest that achievement of this type will be easy, or even possible in all circumstances. No Distributor and/or individual group can be expected to follow precisely any of the diagrams or configurations. This Distributor's group could be higher or lower than the hypothetical cases shown. Each individual's success depends solely on his or her individual efforts.

## **SECTION 3. PRICES AND TERMS.**

- 3.1 The Distributor is authorized to sell Products only at such prices and upon such terms and conditions as HTE USA may establish, from time to time, in its sole discretion.
- 3.2 Prior to the completion of any sale, the Distributor shall disclose to a prospective purchaser of a Product HTE USA's warranty applicable to the Product and request that the prospective purchaser read it. The Distributor shall not make any other representation, warranty or guarantee with respect to any Product, unless expressly authorized in writing by HTE USA to do so. The distributor recognizes that the only warranty applicable to a Product is the written warranty provided by HTE USA for that Product. HTE USA shall have the right, from time to time, to modify and amend its warranty on any Product.
- 3.3 The distributor shall use only promotional and sales materials and forms supplied by HTE USA. The Distributor acknowledges that HTE USA's names, trademarks, patents and, trade names, slogans, symbols and color schemes are the property of HTE USA and the Distributor shall not use or display names, trademarks, patents trade names, slogans, symbols or color schemes of HTE USA or permit the same to be displayed in connection with any other business carried on by the Distributor.

## **SECTION 4. PROCEEDS OF SALE.**

- 4.1 The proceeds of sales of Products sold by the Distributor shall be for the benefit and the account of HTE USA.
- 4.2 The Distributor shall communicate to HTE USA the details of each sale of Products in the manner and at the time specified by HTE USA from time to time.

**SECTION 5. COMMISSIONS.** As full compensation for the distributor's performance under the Agreement, HTE USA shall pay to the Distributor a commission in the amount, in the manner and at the time specified by HTE USA in the Compensation Plan.

**SECTION 6. FINAL STATEMENT.** HTE USA shall, within a reasonable time after the termination of the Agreement, send a final statement to the Distributor of any amount to which the Distributor may be entitled from HTE USA or any amount which the Distributor may owe to HTE USA. The amount so specified shall immediately become due and payable by the one party to the other. The Distributor shall have thirty (30) days to object in writing to the final statement, setting forth the reason for the objection.

**SECTION 7. TERMINATION.** Either party has the right to terminate the Agreement at any time, with or without cause upon the written notice to the other party that it is terminating the agreement effective immediately. Termination of the Agreement shall not operate as cancellation of any indebtedness owing to one party by the other at the time of such termination except as noted in the Leadership Benefits section of the Compensation Plan. Upon termination, Distributor shall promptly cease to hold himself out to the public as a person entitled to sell or service the Products or represent HTE USA in any other manner. Upon termination of the Agreement, the Distributor may, at Distributor's cost return unencumbered, unopened inventory, which is reusable and resalable, and which has been purchased within 1 year of the submission of said termination notice. HTE USA will refund 90% of the net cost of the Product to the Distributor. (Unless modified by any applicable state statute.) HTE USA will also repurchase the initial mandatory sales materials that are returned, postage prepaid, in a resalable and reusable condition; and

**SECTION 8. WAIVER.** Neither the waiver by either party hereto of a breach of or a default under any of the provisions of the Agreement, nor the failure of either party, on one or more occasions, to enforce any of the provision of the Agreement or to exercise any right or privilege hereunder shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provision, rights of privileges hereunder.

**SECTION 9. COMPLETE AGREEMENT AND NONASSIGNABILITY.** The Agreement represents the complete agreement and understanding between the parties, and supersedes all previous agreements. The Agreement is personal to the Distributor and may not be assigned or transferred by the Distributor without the written consent of HTE USA. Any attempt by the Distributor to assign or transfer the agreement shall be null and void. HTE USA may, in its sole discretion, assign the Agreement to any successor entity to the Distributor, or to any entity that acquires substantially all of the assets and assumes substantially all of the liabilities of the Distributor.

**SECTION 10. APPLICABLE LAW AND SEVERABILITY.** The Agreement shall be governed, construed and enforced under the laws of the State of New York. If any provision of the Agreement is unenforceable or invalid, the Agreement shall be ineffective only to the extent of such provision and the validity of the remaining provisions of the Agreement shall not be affected. The right to amend the content of the Agreement is reserved by HTE USA, and amendments may be published when deemed necessary on HTE USA's website and in its newsletters.