

## Terms and Conditions for Sale of Goods

### Kembla (HK) Limited (“Kembla”)

Unless otherwise specified the following terms and conditions and any other documents attached hereto or referred to shall form part of the conditions of Kembla’s acceptance of the Customer’s purchase order (“Accepted Order”) and are binding on the parties. Subject to any written exclusion or variation specifically agreed between the parties, either before or after the acceptance of the Customer’s purchase order, no waiver or variation shall be established by either party to alter the obligation of the parties in this Accepted Order.

#### **1. Sale.**

Kembla agrees to sell, transfer and convey to Customer, and Customer agrees to purchase the goods as set out in Kembla’s Order Acceptance Letter (the “Goods”).

#### **2. Transfer of Title.**

Transfer of title and full ownership rights in the Goods shall pass to Customer after delivery of goods and services.

#### **3. Inspection**

Customer shall have the right to inspect the Goods on arrival on Customer’s facility. Within 3 days after delivery, Customer must give notice to Kembla of any claim with respect to the condition, quality or grade of the Goods or non-conformance to this Accepted Order, specifying the basis of the claim in detail. Kembla may, at its option, inspect the Goods at Customer’s facility to confirm that the Goods do not conform. Failure of Customer to comply with these conditions within the time set forth herein shall constitute irrevocable acceptance of the Goods by the Customer.

#### **4. Limitation of Liability**

4.1. For unacceptable defective Goods (if any), which are proved to the manufacturer’s fault, Customer’s sole remedy and Kembla’s sole obligation shall be at Kembla’s option to replace the Goods on one to one basis at Kembla’s expense or credit Customer the amount of the purchase price for the non-conforming Goods. In no event shall Kembla be liable for any special, direct, indirect, incidental or consequential damages (including but not limited to any labour or other costs) arising out of or connected with this Accepted Order or the Goods, regardless of whether a claim is based on contract, tort, statute or otherwise, nor shall Customer’s damages exceed the amount of the purchase price of the Goods.

4.2. Kembla will not be liable or deemed to be in default for any delay or failure in the delivery or unable to perform an obligation under this Accepted Order resulting directly or indirectly from any cause or circumstances beyond its reasonable control, including but not limited to natural disasters, fires, explosion, storms, floods, acts of terrorism or war (whether declared or not), the mobilization of arm forces, civil commotion or riot, industrial action or labour disturbance, currency restriction, embargo, government restraint, expropriation or prohibition, failure of a public utility or common carrier, or default or failure of third party vendor or suppliers.

#### **5. Non-exclusivity**

Unless otherwise specified in this Accepted Order, no exclusivity is granted by either party to the other under this Accepted Order.

## **6. Intellectual Property**

Nothing herein shall give the Customer any right in respect of any trademarks or trade names or logo or any intellectual property right of any nature in or in relation to this Accepted Order.

## **7. Assignment**

Neither party may assign or otherwise transfer any or all of its right or obligations under this Accepted Order either in whole or in part without the prior written consent of the other party.

## **8. Subcontracting**

Each party shall be entitled to subcontract the performance of any of its obligations under this Accepted Order.

## **9. Independent relationship**

Neither party is an agent / joint venture or partner with the other, and neither party shall have authority to legally bind the other in any matter.

## **10. No Waiver.**

No waiver of any provisions of this Accepted Order shall be binding unless it is in writing and signed by the party making the waiver. The waiver or failure of either party to exercise in any respect any right provided in this Accepted Order shall not be deemed a waiver of any other right or remedy to which the party may be entitled.

## **11. Entirety of Agreement.**

The terms and conditions set forth herein constitute the entire agreement between the parties and supersede any communications or previous agreements with respect to the subject matter of this Accepted Order. There are no written or oral understandings directly or indirectly related to this Accepted Order that are not set forth herein. No change can be made to this Accepted Order other than in writing and signed for acceptance by Kembla. If there is any inconsistency between any provisions of these terms and conditions and any Order of the Customer, these terms and conditions shall prevail to the extent of the inconsistency.

## **12. Legal validity**

If any provisions of this Accepted Order are construed to be illegal or invalid, they shall not affect the legality, validity and enforceability of the other provisions of this Accepted Order. The illegal or invalid provisions shall be deleted from this Accepted Order and no longer incorporated herein but all other provisions of this Accepted Order shall continue.

## **13. Governing Law.**

The provisions of this Accepted Order shall be construed and governed in accordance with the laws of Hong Kong and both parties agree to submit to the exclusive jurisdiction of the Courts of Hong Kong.

## **14. Notices.**

Any notice required by this Accepted Order or given in connection with it, shall be in writing and shall be sufficiently given if sent by facsimile or registered post at the address of the parties. Any such notice shall be deemed to have been received and given at the time when in ordinary course of transmission it should have been delivered at the address to which it was sent.



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