

KEW HEALTH AND BEAUTY LIMITED

Standard Terms and Conditions of Business for the supply of Goods

The Buyer's attention is in particular drawn to the provisions of condition 10.4.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Company: Kew Health and Beauty Limited and any other Affiliate and where appropriate their assignees.

Affiliate: means in relation to one company, any other company which is either controlled by, under common control with, or controls the other and for these purposes a company shall be deemed to have control of another if (directly or indirectly) it owns a majority of the voting shares of, or is entitled (directly or indirectly) to appoint a majority of the directors of the other company.

Approved Third Party: the Company's and the Buyer's respective employees, officers, representatives or advisers who need to know Confidential Information for the purpose of carrying out their respective obligations under this Contract.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Buyer: the person, firm or company who purchases the Goods from the Company.

Confidential Information: all information of a confidential nature (including, without limitation, information relating to a party's products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets and information of commercial value) which may become known to that party from the other party.

Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions.

Cosmetic Private Label Goods: Goods formulated on behalf of the Buyer and sold in the livery and trademark of the Buyer.

Credit Reference Agency: Euler Hermes Collections UK Limited and its associated companies or any other credit agency or similar organisation used by the Company to check the financial standing or credit of the Buyer.

Delivery Point: the place where delivery of the Goods is to take place under condition 4.

Goods: any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

Goods Specification: any specification for the Goods that is agreed between the Company and the Buyer or accepted by the Company.

Incoterms: the International Commercial Terms published from time to time by the International Chamber of Commerce and any variations of the same.

Order: the written order placed by the Buyer with the Company for the supply of Goods as set out in the Buyers purchase order form or letter.

Private Label Goods: Goods of the Company supplied in the livery and trademark of the Buyer.

Product Liability Claim: any claim of liability incurred by the Buyer in respect of damage to property, death or personal injury arising from any fault or defect in the materials or workmanship of the Goods and any reasonable costs, claims, demands and expenses arising out of or in connection with that liability.

Product Specification: the current specification for the Goods or the agreed specification for Cosmetic Private Label Goods or Private Label Goods.

Territory: the countries or territories outside England and Wales in which is located the Delivery Point.

1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a Director or the Company Secretary of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.4 Each Order of the Buyer to the Company or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy the Goods subject to these conditions.

2.5 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

3. ORDERS

3.1 The Buyer shall be responsible for ensuring the accuracy of the Goods Specification applicable to the Goods, and for providing to the Company any information required by the Company in connection with the supply of the Goods. The Company reserves the right to make any changes in the Goods Specification which may be required to conform with any applicable laws, statutes, regulations, and codes relating to the production, purchase and delivery of the Goods.

3.2 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these conditions and shall only be deemed as accepted when the Company issues a written acceptance of the Order at which point and on which date the contract between the Company and the Buyer shall come into existence.

3.3 The Company shall be at liberty in the event of it being unable to supply any particular item ordered by the Buyer to cancel or reject any Order placed by the Buyer.

3.4 The Company may at its absolute discretion refuse to supply any Goods to any Buyer and in such event shall notify such Buyer of its decision not to supply in which event the Buyer shall have no claim against the Company for any liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and any interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Buyer as a result of the Company's refusal to supply.

3.5 No Order once placed may be cancelled, postponed or withdrawn by the Buyer, but notwithstanding the provisions of this condition, the Company may at its absolute discretion accept cancellation, postponement or withdrawal of an Order subject to the Buyer purchasing all and any raw materials (at cost plus 5%) held by the Company for the purpose of producing the Buyer's Goods and any stock (at list price) held by the Company but not yet delivered to the Buyer and subject to the Buyer reimbursing the Company for all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and any interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Company as a result of the cancellation, postponement or withdrawal of an Order by the Buyer. 3.6 No Order once placed with the Company can be varied without the Company's prior written consent.

3.7 In the event that the Company agrees to vary any Order the costs of all additional works carried out by the Company in connection with such variation shall be paid by the Buyer either at the date of such variation or at the date of delivery of the Goods whichever the Company shall at its absolute discretion decide.

4. DELIVERY

4.1 Any dates quoted or agreed by the Company for delivery of Goods to the Buyer are approximate only, and although the Company will endeavour to supply the Goods on the dates quoted or agreed, the Company shall not be liable for any delay in delivery howsoever caused.

4.2 Time for delivery of the Goods shall not be of the essence unless expressly agreed in writing by the Company in accordance with condition 3 above.

4.3 Goods shall be delivered to the Buyer at the Delivery Point and may be delivered in advance of quoted delivery dates upon giving prior reasonable notice to the Buyer.

4.4 Where Goods are to be delivered in instalments failure by the Company to deliver any one or more of the instalments and/or any claim by the Buyer in respect of any one or more instalment shall not entitle the Buyer to repudiate the Contract as a whole.

4.5 Unless otherwise agreed in writing no Goods supplied by the Company to the Buyer are on sale or return or sample basis and no Goods once delivered may be returned to the Company without prior written authority from the Company unless those Goods are accepted by the Company as being defective in some way.

4.6 In the event of a return of the Goods being authorised by the Company, the Company shall have the right to charge carriage to and from the Delivery Point or other premises of the Buyer and the costs involved in the removal of the Goods from the Delivery Point or the other premises of the Buyer and restocking charges, costs and expenses.

4.7 Subject to the other provisions of these conditions, the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.8 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

(a) the risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

(b) the Goods shall be deemed to have been delivered; and

(c) the Company may store the Goods until actual delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.9 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

4.10 Incoterms shall apply to the delivery of Goods under this Contract and if there is any inconsistency between the Incoterms and these conditions then the Incoterms shall apply.

5. NON-DELIVERY

5.1 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received.

5.2 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK/TITLE

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received payment in full (in cash or cleared funds) of all sums due to it in respect of:

(a) the Goods; and

(b) all other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

(a) hold the Goods on a fiduciary basis as the Company's bailee;

(b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

(c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

(d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company;

(e) give the Company such information relating to the Goods as the Company may require from time to time.

6.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

(a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and

(b) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

6.5 The Buyer's right to possession of the Goods shall terminate immediately if:

- (a) the Buyer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 15 Business Days after receipt of notice in writing of the breach;
- (b) the Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay his debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the Buyer;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- (e) the Buyer (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 15 Business Days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer (being a company);
- (h) a floating charge holder over the assets of the Buyer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer;
- (j) any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in conditions 6.5 (a) to 6.5 (i) (inclusive);
- (k) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (l) the Buyer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

6.6 The Company shall be entitled to recover payment for the Goods, notwithstanding that ownership of any of the Goods has not passed from the Company.

6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

6.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

6.9 On termination of the Contract, howsoever caused;

- (a) the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect; and
- (b) the Buyer shall purchase all and any raw materials held by the Company for the purpose of producing the Goods and any stock held by the Company but not yet delivered to the Buyer at a price calculated in accordance with condition 3.5.

7. PRICE

7.1 The prices quoted to the Buyer for the Goods are subject to any increase by the Company becoming effective between the date of Order and the date of delivery or supply, and any Goods supplied shall be invoiced at the price current at the date of delivery or supply.

7.2 Unless otherwise stated all prices quoted shall be exclusive of Value Added Tax at the appropriate rate and except where otherwise agreed in writing between the Company and the Buyer all prices given by the Company are on an ex works basis and where the Company agrees to deliver goods the Company's charge for such delivery shall be added and shall be payable by the Buyer as part of the invoice price.

7.3 Unless otherwise agreed in accordance with condition 2.3 above, all invoices are payable in pounds sterling the earlier of 30 days from date of invoice or on the last working day of the month following the month in which the Goods are delivered or deemed to be delivered.

7.4 Any sums due under any invoice shall bear interest at the rate of interest prescribed under the Late Payment of Commercial Debts (Interest) Act 1998 and regulations made under the Act, on the value of the invoice (or such part thereof as is unpaid) from the due date for payment until the date of actual payment, such interest to be calculated on a daily basis.

7.5 There will be no discounts on invoices, unless specifically agreed in writing between the Company and the Buyer and in the event of any invoice upon which discount has been agreed not being paid by its due date then all such discount shall be forfeited and the full amount of the invoice shall be payable together with interest on the full amount from the due date for payment until the date of actual payment, such interest to be calculated on a daily basis.

7.6 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the contract and/or suspend any further deliveries to the Buyer.

7.7 In the event that the Company employs solicitors or other agencies to collect all or any sums due from the Buyer to the Company the costs so incurred by the Company shall be payable by the Buyer in addition to the amount of the invoice and any interest thereon and such costs shall not be limited to those recoverable under a court action.

7.8. The Company may at any time before or during the term of the Contract at its absolute discretion use at least once a Credit Reference Agency to check the financial standing or credit of the Buyer and the Buyer consents to the Company making such checks.

7.9 The Buyer shall comply with all reasonable requests from the Company for information to carry out such checks with a Credit Reference Agency.

7.10 The expenses incurred by the Company in carrying out such checks mentioned in conditions 7.8 and 7.9 shall be paid by the Buyer to the Company on demand, or added to the invoice to be paid by the Buyer along with the price for the Goods.

8. PAYMENT

8.1 Subject to condition 8.4, payment of the price for the Goods is due in pounds sterling the earlier of 30 days from date of invoice or on the last working day of the month following the month in which the Goods are delivered or deemed to be delivered.

8.2 Time for payment shall be of the essence.

8.3 No payment shall be deemed to have been received until the Company has received cleared and unencumbered funds to its account.

8.4 All payments payable to the Company by the Buyer under the Contract shall become due immediately on its termination despite any other provision.

8.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

8.6 For the avoidance of doubt if the Company and the Buyer agree to payment for all or some of the Goods to be made in advance of delivery then the Company will not be liable for any interest or other payments which the Buyer may have earned or become entitled to if payment had been made in accordance with condition 8.1.

9. QUALITY AND PRODUCT LIABILITY CLAIMS

9.1 The Company warrants that (subject to the other provisions of these conditions) that on delivery the Goods shall:

(a) be of satisfactory quality within the meaning of the Sale of Goods Act 1979 and (b)

comply with the Goods Specification.

9.2 The Company shall not be liable for a breach of any of the warranties in condition 9.1 unless:

(a) the Buyer gives written notice of any defect to the Company, within 10 Business Days of delivery or if the defect could not have reasonably been discovered with that period notice the Buyer gives written notice of any defect to the Company, within 10 Business Days of the discovery of the defect and

(b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.

9.3 The Company shall not be liable for a breach of any of the warranties in condition 9.1 if:

- (a) the Buyer makes any further use of such Goods after giving such notice; or
- (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
- (c) the Buyer alters or repairs such Goods without the written consent of the Company.
- (d) the elements in breach have been specifically approved by the Buyer.

9.4 Subject to condition 9.2 and condition 9.3, if any of the Goods do not conform with any of the warranties in condition 9.1 the Company shall at its option replace such Goods or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.

9.5 If the Company complies with condition 9.4 it shall have no further liability for a breach of any of the warranties in condition 9.1 in respect of such Goods.

9.6 The Company shall in its absolute and sole discretion have the right to recall or withdraw any Goods from any market due to defects in the quality, or concerns relating to the safety or efficacy of the Goods and in exercising this right the Company shall take into account any concerns or recommendations expressed by the Buyer, or by any Regulator or Regulatory Authority, (including the Ministry of Health or equivalent), in England and Wales or in any Territory about the safety or efficacy of the Goods. In the event that the Company exercise the right to recall or withdraw any Goods the Company shall reimburse the Buyer the price paid for those Goods as soon as is reasonably practicable and shall pay for any reasonable redelivery costs associated with such action.

9.7 Where the Goods to be provided to the Buyer are Cosmetic Private Label Goods or Private Label Goods the Special Conditions set out in the Appendix shall also apply.

9.8 The Buyer shall

- (a) upon becoming aware of an actual or potential Product Liability Claim, notify the Company within 48 hours;
- (b) allow the Company, at its request, the exclusive conduct of the Product Liability Claim and all related disputes, proceedings, negotiations and settlements; and
- (c) not admit liability in connection with any Product Liability Claim or settle any Product Liability Claim without the prior written consent of the Company.
- (d) maintain appropriate insurance in accordance with local laws and as would generally be expected in Europe of a business undertaking the role of importing, marketing and distributing Pharmaceutical, Healthcare or Cosmetic products.

9.9 The Buyer undertakes to maintain appropriate up-to-date and accurate records to enable the immediate recall of any batches of the Goods or any of them from the retail or wholesale markets. These records shall include records of deliveries to customers (including details of batch numbers, delivery date, name and address of customer, and telephone number and fax or e-mail address if available).

9.10 The Buyer shall give such assistance as the Company shall require for the purpose of recalling as a matter of urgency any quantities of the Goods or any of them from the retail or wholesale market.

9.11 The Buyer shall establish and maintain a suitable system that ensures that information about every suspected adverse reaction reported to the Buyer its officers and staff (verbally or in writing), or to a third party approved by the Company, is collected and passed to the Company within 5 Business Days (or sooner) of first notification, to enable the Company to meet any of its own legal obligations. The Buyer shall co-operate with any suspected adverse reaction investigation to enable timely reporting of the findings to the appropriate Regulatory Authority.

9.12 The Buyer shall indemnify the Company its officers and staff against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any Product Liability Claim to the extent that a claim under it results from the Buyer's negligence or misconduct.

10. LIMITATION OF LIABILITY AND INSURANCE

10.1 Subject to conditions 4, 5 and 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of these conditions;
- (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods;
and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or (d) for fraud or fraudulent misrepresentation.

10.4 Subject to conditions 10.2 and 10.3:

(a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and

(b) the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

10.5 Unless otherwise agreed in writing between the parties, the Buyer shall, at its own expense, carry and maintain for the duration of this Contract the following insurances under policies and with companies satisfactory to the Company and in amounts per event no less than that specified for each type:

(a) Public Liability Insurance for a sum assured of not less than £1,000,000 (one million pounds); and

(b) Product Liability Insurance for a sum assured of not less than £5,000,000 (five million pounds.)

and the Buyer shall provide to the Company on demand a copy such insurance policies. 11.

ASSIGNMENT

11.1 The Company may assign the Contract or any part of it to any person, firm or company.

11.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

12. FORCE MAJEURE

12.1 The Company reserves the right at any time to give notice in writing to the Buyer to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer if it is prevented from or delayed in the carrying on of its business due a Force Majeure Event.

12.2 A Force Majeure Event means any event or circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, (including the imposition of trade sanctions and other trade restrictions imposed by the UK or other governments on the Company or the Buyer), war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

12.3 The Company shall not be liable to the Buyer as a result of any delay in delivery, cancellation of the Contract, or reduction in the volume of the Goods or other failure to perform its obligations under this contract as a result of a Force Majeure Event.

12.4 If the Force Majeure Event continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

13. COMPLIANCE WITH STATUTE AND LOCAL LAWS

13.1 The Buyer shall be responsible for obtaining any necessary governmental registration requirements, import licences or permits necessary for the entry of the Goods into the Territory, or their delivery to the Delivery Point and the Buyer shall be responsible for any and all customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the importation and delivery of the Goods into the Territory and to the Delivery Point.

13.2 The Buyer shall comply with all applicable laws, statutes, regulations, and codes relating to the purchase and delivery of the Goods, whether the Delivery Point is in the England and Wales or in another Territory.

13.3 The Buyer shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

13.4 In particular the Buyer shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in England and Wales.

13.5 The Buyer shall also

- (a) comply with the Company's Ethics, Anti-bribery and Anti-corruption Policies as adopted from time to time by the Company and in each case any variations of those policies adopted from time to time by the Company.
- (b) have and maintain in place its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Act, and will enforce them where appropriate;
- (c) promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Buyer in connection with the performance of this agreement;
- (d) immediately notify the Company if a foreign public official becomes an officer or employee of the Buyer or acquires a direct or indirect interest in the Buyer (and the Buyer warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract);

13.6 Breaches of conditions 13.1 to 13.5 inclusive shall be deemed material breaches of Contract.

13.7 For the purpose of condition 13.5 the meaning of adequate procedures and foreign public official shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this condition a person associated with the Buyer includes but is not limited to any subcontractor of the Buyer.

13.8 The Buyer shall indemnify the Company, its officers and staff against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Company, its officers or staff arising out of or in connection with any breaches of conditions 13.1 to 13.5 inclusive of this Contract.

14. TRADE MARKS

14.1 The Buyer shall not, without the prior written consent of the Company, alter or make any addition to the Company's labelling or packaging of the Goods displaying the Company's trade marks, and shall not alter, deface or remove in any manner any reference to the trade marks, any reference to the Company or any other name attached or affixed to the Goods or their packaging or labelling.

14.1 The Company makes no representation or warranty as to the validity or enforceability of the trade marks nor as to whether the same infringe on any intellectual property rights of any third parties in England and Wales or in any Territory or other jurisdictions.

14.2 The Buyer shall forthwith enter into any document necessary for the recording, registration or safeguarding of the Company's trade mark rights with the Buyer in respect of the marketing of the Goods under the trade marks in a form satisfactory to the Company.

14.3 Unless the Goods are a Cosmetic Private Label Goods, nothing in this Contract shall transfer any right in or to the trademarks or product formulations to the Buyer.

15. COMMUNICATIONS

15.1 All notices and other communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:

(a) in case of communications to the Company to its registered office or such other address as shall be notified to the Buyer by the Company; or

(b) in the case of the communications to the Buyer to the registered office of the Buyer (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.

15.2 Communications shall be deemed to have been received:

(a) if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by fax on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

15.3 Communications addressed to the Company shall be marked for the attention of The Managing Director.

16. CONFIDENTIALITY

16.1 Subject to condition 16.2 each party agrees and undertakes that during the term of the Contract and thereafter they shall keep confidential and shall not use for their own purposes, nor without the prior written consent of the other party disclose to any Approved Third Party, any Confidential Information, unless the information is public knowledge or already known to that party at the time of disclosure, or subsequently becomes public knowledge

, (other than by breach of this Contract) or subsequently comes lawfully into the possession of that party from a third party or is required by law, court order or any governmental or regulatory authority to be disclosed.

16.2 To the extent necessary to implement the provisions of the Contract, each party may disclose Confidential Information to any Approved Third Party and sub-contractors as may be reasonably necessary or desirable, provided that before any such disclosure each party shall make any Approved Third Party and subcontractors aware of their obligations of confidentiality under this Contract and shall at all times procure compliance by those Approved Third Party and subcontractors with them.

16.3 For the avoidance of doubt, the data or results of any testing undertaken by the Company on the Goods, and any further information or documentation supplied by the Company to the Buyer for the purpose of obtaining a registration or licence for the Goods shall remain the Company's Confidential Information, and may only be used by the Buyer for the purpose disclosed.

17.1 TERMINATION

17.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 15 Business Days after receipt of notice in writing of the breach;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 15 Business Days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in conditions 17.1 (a) to 17.1 (i) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

17.2 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under this Contract on the due date for payment.

17.3 Without limiting its other rights or remedies, the Company shall have the right to suspend all further deliveries of Goods under the Contract or any other contract between the Buyer and the Company if:

- (a) the Buyer fails to make pay any amount due under this Contract on the due date for payment; or
- (b) the Buyer becomes subject to any of the events listed in conditions 17.1 (a) to 17.1 (i), or the Company reasonably believes that the Buyer is about to become subject to any of them.

18. CONSEQUENCES OF TERMINATION

18.1 On termination of the Contract for any reason the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Goods delivered but for which no invoice has yet been submitted, the Company shall submit an invoice, which shall be payable by the Buyer immediately on receipt;

18.2 If the Buyer fails to comply with the payment requirements, then the Company may enter the Buyer's premises and take possession of the Goods. Until they have been returned, the Buyer shall be solely responsible for the safe keeping of the Goods and will not use them for any purpose not connected with this Contract.

18.3 The accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry. 18.4 Conditions which expressly or by implication have effect after termination shall continue in full force and effect.

19. GENERAL

19.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

19.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

19.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

19.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

14.9 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

19.6 The Buyer acknowledges that it is acting as a business rather than a consumer for the purposes of the Unfair Contract Terms Act 1977 and any related legislation.

19.7 The Buyer warrants to the Company that the Buyer is not a business or body which has been banned from purchasing Goods under this Contract by any Government, Regulatory Authority or Court in England or Wales or in any Territory.

19.7 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

19.8 Unless the Goods are produced in the livery of the Buyer, nothing in this Contract will be deemed to offer the Buyer any form of exclusive or sole distributor rights.

19.9 Nothing in this Contract shall commit or obligate the Company to accept any further orders from the Buyer and nothing in this Contract shall prevent the Company from producing and selling similar products to others.

19.10 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties irrevocably submit to the exclusive jurisdiction of the English courts except that the Company will have the right to seek payment of any sums due under the Contract in any foreign court.

Appendix Special Conditions relating to Cosmetic Private Label Goods and Private Label Goods only

1. It is the responsibility of the Buyer to ensure that all branding, descriptions, and any other wording or design material to appear or appearing on the Goods, their packaging or other promotional materials is compliant with all applicable laws, statutes, regulations, and codes in England and Wales or in any Territory or other jurisdictions. Such laws, statutes, regulations, and codes shall include provisions relating to intellectual property rights, product advertising and any regulatory provisions governing the production, sale and delivery of the Goods.
2. The Company may assist the Buyer in its compliance with such laws, statutes, regulations, and codes but the parties agree that the Company shall not be liable for any non compliance and the Company accepts no liability for such non compliance. The Buyer shall indemnify the Company its officers and staff against all liabilities, costs, expenses, damages and losses in respect of any claim that the Goods, their packaging or any other promotional material contravenes such laws, statutes, regulations, and codes, including a claim that it infringes the intellectual property rights of any third party.
3. The Company reserves the right to make any changes to the Product Specification which may be required to conform to any applicable laws, statutes, regulations, and codes, relevant to the production, sale and delivery of the Goods but it shall not be the responsibility of the Company to do so.
4. The Buyer will indemnify the Company its officers and staff against any and all losses, liabilities, claims, actions, damages, costs or expenses arising from any infringement or alleged infringement of any intellectual property of any third party in respect of use of intellectual property or know-how provided by the Buyer to the Company for the purpose of fulfilling its obligations, and against all damages, costs or expenses which the Company may incur in defending any such claim or action for such infringement or for which the Company may become liable in any such action.
5. The Buyer will indemnify the Company its officers and staff against any and all losses, liabilities, claims, actions, damages, costs or expenses with respect to any claim that the Goods or their retail packaging infringes the design, trade dress, trademark rights, or copyrights of any third party.
6. The Buyer shall be responsible for meeting any liabilities arising from, or caused by, the marketing and sales of the Goods and will indemnify and hold the Company its officers and staff harmless from and against any loss, claim, damage, expense or liability in connection therewith, except to the extent that the liability is attributable to the negligence, fault, act or omission of the Company its officers and staff, or breach by the Company of the terms of the Contract.
7. Where the Buyer requires any Goods to be packaged in a particular way by the Company, or requires the Company to use particular materials to package the Goods the Company shall not provide or be deemed to provide any warranty as to the suitability of the method of packaging or the packaging itself and the Buyer shall be responsible for meeting any liabilities arising from, or caused by, any unsuitable packaging of the Goods and will indemnify and hold the Company its officers and staff harmless from and against any loss, claim, damage, expense or liability in connection therewith,
8. For the avoidance of doubt where the Buyer requires any Goods to be packaged in a particular way by the Company, or requires the Company to use particular materials to package the Goods the Buyer shall pay the

Company for the materials and the other costs and expenses associated with the packaging of the Goods including the cost of any overages regardless of whether a Purchase Order exists for such overages. For the avoidance of doubt many items are subject to Minimum Order Requirements which can exceed substantially the quantity actually used in manufacture. It is the Buyer's responsibility to discuss such overages and their existence with the Company.

9. The Buyer acknowledges that the stability or compatibility of the Goods or their fitness for a particular purpose may change over time, and save as expressly set out in the Contract, the Company makes no warranty nor accepts any liability in relation to the Goods. The Buyer shall indemnify the Company its officers and staff in respect of any claim from a third party that the Goods have caused an adverse reaction resulting in injury or loss.