

## **TERMS AND CONDITIONS ("Terms and Conditions")**

### **1. DEFINITIONS**

As used throughout these Terms and Conditions, each of the following terms shall have the respective meaning set forth below:

- 1.1 **"Affiliate"** means with respect to a given company, any company which directly or indirectly controls, is controlled by or is under common control with such company. For the purposes of this definition, "control" shall be presumed to exist if one of the following conditions is met: (a) in the case of corporate entities, direct or indirect ownership of at least fifty (50) percent of the stock or shares having the right to vote for the election of directors, and (b) in the case of non-corporate entities, direct or indirect ownership of at least fifty (50) percent of the equity interest with the power to direct the management and policies of such non-corporate entities.
- 1.2 **"Buyer"** means the legal entity as stipulated in the PO as defined below or the Award as defined below.
- 1.2 **"Commercial Conditions"** mean the price, the place of delivery, the delivery date and any other conditions, requirements, and/or schedules set forth or referenced in the PO or the Award.
- 1.3 **"Product"** means the product that Buyer wishes to buy from Seller under the Agreement as defined below.
- 1.4 **"Raw Materials"** mean the single substances, starting materials, components, and packaging materials required for the manufacturing and packaging of the Product in accordance with the Specifications.
- 1.5 **"Seller"** means the person or legal entity as stipulated in the PO or the Award.
- 1.6 **"Specifications"** mean the specifications as agreed between Buyer and Seller as part of the Agreement or if no specifications are set forth or referenced in the Agreement, Seller's standard specifications for the Products.

### **2 ACCEPTANCE**

- 2.1 The Terms and Conditions, together with the Purchase Order (the **"PO"**) and/or the terms of Buyer's business award letter (the **"Award"**) constitute the entire agreement (the **"Agreement"**) between Buyer and Seller that governs the supply of the Product.
- 2.2 A PO is deemed accepted if Seller does not explicitly reject the PO within two (2) working days after Buyer has issued the PO. An inquiry or a request for quotation made by Buyer does not constitute a PO but is an invitation to Seller to make an offer. In any event, Seller's offer will be deemed based on these Terms and Conditions.
- 2.3 In the event of any discrepancy between these Terms and Conditions and the PO or Award, including the Commercial Conditions, the terms of the PO or Award, including the Commercial Conditions, shall prevail. In the event of any discrepancy between these Terms and Conditions or any other document pertaining to Buyer's purchase of the Product from Seller, the Terms and Conditions shall prevail. Furthermore, these Terms and Conditions shall always override Seller's terms and conditions, or any other documentation exchanged between Buyer and Seller.

- 2.4 Except in case Buyer and Seller enter into a separate supply agreement for the Product which renders these Terms and Conditions inapplicable, all purchases of the Product are governed by these Terms and Conditions.

### 3 SUPPLY OF PRODUCT

- 3.1 Commercial Conditions. Seller shall supply and Buyer agrees to purchase those quantities of the Product at the Commercial Conditions specified in the PO or the Award.
- 3.2 No exclusivity and no volume requirement. Buyer reserves the right to manufacture the Product for itself and to purchase a product that is similar to the Product from any third party. Buyer is not required to buy any certain quantity of Product unless indicated otherwise in the Agreement.
- 3.3. Raw Materials. For the duration of the Agreement, Seller shall purchase the Raw Materials from its supplier(s) at terms to be agreed between such supplier(s) and Seller. Such terms shall include substantially identical terms as set forth herein regarding quality, legal and regulatory compliance, compliant delivery, forecast, lead time, capacity and business continuity plan. Seller shall obtain supply guarantees from approved suppliers for all critical Raw Materials, including but not limited to supply guarantees on sufficient volumes of Raw Materials for the volumes indicated in the Agreement. Seller shall promptly notify Buyer of any actual or anticipated issues related to such supply guarantees and/or any events that have or may reasonably be expected to have a material effect on the supply of Raw Materials. All Raw Materials shall be procured by Seller in accordance with the Specifications, applicable laws and regulations including but not limited to the REACH legislation and requirements on animal testing as set forth under article 3.6 and article 3.7 respectively, and from sources defined jointly by Buyer and Seller, based on best quality, cost and reliability. Seller shall be responsible for the quality of the Raw Materials used in the manufacture of the Products and of their conformity with the Specifications. Seller shall complete Buyer's Raw Materials questionnaire, or any other form as required by Buyer to obtain information to ensure regulatory compliance. Seller shall also ensure that its (sub)suppliers complete such documents as required by Buyer. Buyer shall accept the minimum quality and control standards established by Seller after timely validation thereof by Buyer and provided such quality and control standards meet all requirements under relevant laws and regulations.
- 3.4 Production Process Changes. Seller shall notify Buyer in writing prior to making any changes to Raw Material feed stocks, the production process or production equipment or location(s) involved in the fulfillment of the Agreement and shall obtain Buyer's prior written approval to such changes. Buyer shall not unreasonably withhold such approval.
- 3.5 Capacities. Seller shall devote adequate manufacturing capacity to be capable of manufacturing and supplying Product to Buyer in the quantities set out in the forecast, as specified and in accordance with article 4.1. Seller is obliged to update Buyer of available capacities upon Buyer's request. Seller shall immediately inform Buyer of any possible capacity constraints, and in such event shall include a business contingency plan, if appropriate.
- 3.6 REACH. Seller shall ensure that any Product complies with the relevant provisions of the REACH legislation. Seller warrants that all Raw Materials used in the Products are registered, if required, under regulation (EC)1907/2006 and any implementing laws thereof, so as to ensure that the Products can be properly marketed in the EEA, including for the use Buyer wishes to make of them. In addition, Seller must provide Buyer with information on 'Substance of Very High Concern' ('SVHC', as defined in the REACH regulation) used in the Product to ensure its safe use. Seller shall provide Buyer with written certification of such registration. Any failure by Seller to register within the required applicable deadlines will be deemed a material breach of the Agreement. Furthermore, Seller has the obligation to inform Buyer without any delay of any failure to register

within the required applicable deadlines, and Buyer will have the right to terminate the Agreement in accordance with article 6.1, without prejudice to any other right or remedy that Buyer may have. In the event Buyer or any of its Affiliates is the physical importer of a Raw Material or Product manufactured outside the EU, Seller shall ensure that it or its non-EU Raw Material supplier (as the case may be) will nominate an Only Representative (as defined in the REACH regulation) within the EU. In the event any such Only Representative is nominated, Seller shall ensure that Buyer or any of Buyer's Affiliates can benefit from the services of such Only Representative at no additional cost.

- 3.7 EU Cosmetics legislation. To the extent applicable, Seller warrants that no single Raw Material or Product provided to Buyer was tested on animals in order to meet the requirement of the EU Cosmetics legislation in violation of the testing ban in the EU Cosmetics legislation (and the implementing national legislation) or such that it would lead to a marketing ban in line with the EU Cosmetics legislation (and the implementing national legislation).
- 3.8 Ethical Business Conduct. Seller commits to ethical business conduct in accordance with applicable laws and regulations. Neither party shall perform any actions that are prohibited by local and other anti-corruption laws (collectively "**Anti-Corruption Laws**") that may be applicable to one or both parties to the Agreement. Without limiting the foregoing, neither party shall make any payments, or offer or transfer anything of value, to any government official or government employee, to any political party official or candidate for political office or to any other third party related to the transaction in a manner that would violate Anti-Corruption Laws.
- 3.9 Artwork Management. Seller shall provide Buyer's Global Engineering Department in advance with Seller's printing specifications (if any) for artwork files and Buyer shall transmit these to its artwork agency. Handshake artworks (*i.e.*, final artwork files approved by Buyer and ready for printing) received by Seller via Buyer's artwork agency shall not be altered under any circumstances by Seller. If any change to the artwork file is needed after handshake, Seller shall submit its request for change to Buyer and, if accepted, Buyer shall instruct its artwork agency to implement the change and have it approved by Buyer's concerned departments (or persons) before transmitting the new handshake artwork to Seller. Print proofing shall be the sole responsibility of Seller and Seller shall not submit any print proof material to Buyer. Handshake artwork files shall be maintained by Seller according to the Good Documentation Practices as communicated by Buyer to Seller.
- 3.10 Change to Specifications. Any change to Specifications may be initiated by Buyer at any time and Seller shall meet the change unless (i) the change would require Seller to supply a Product that it or its subcontractors do not manufacture in the ordinary course of its business, or (ii) it would involve the use of resources beyond the capacity of Seller or its subcontractors. Any such objection shall be made by Seller to Buyer within ten (10) working days from the date of Buyer's change request.
- 3.11 Kenvue Supplier Code of Conduct. Seller and its officers have read and understand the 'Kenvue Supplier Code of Conduct' (posted on <https://www.kenvue.com/policies-positions/supplier-code-of-conduct> ). Seller shall maintain the records necessary to demonstrate compliance with these standards and shall if so requested, provide to Buyer a written certification of such compliance annually during the term of the Agreement. If Seller fails to comply with any of the standards, then Buyer may, at its sole discretion and taking into account the nature of the non-compliance, (i) request Seller to cure the non-compliance within twenty (20) days upon notification by Buyer of the non-compliance or (ii) rectify such non-compliance at Sellers' cost and/or (iii) terminate the Agreement immediately, effective upon ten (10) days' prior written notice, and without an obligation to pay any penalty or termination fee.

#### 4 FORECASTS, ORDERS

- 4.1 Buyer may furnish to Seller a rolling monthly forecast of the quantities of Product that may be ordered by Buyer during the following twelve (12) month period. Such forecast is non-binding for Buyer and shall represent reasonable estimates for planning purposes only.
- 4.2 Seller shall provide to Buyer such quantities of Product as may be ordered by Buyer pursuant to a PO, up to one hundred fifty percent (150%) of the quantity set forth in the most recent forecast for the applicable period. For the amount of Products ordered under a PO which exceeds one hundred fifty percent (150%) of the current forecast for the applicable period, (such excess volume referred to hereafter as "Excess"), Seller shall use its best efforts to deliver the Excess amount on the delivery date as set forth in the PO. If Seller is unable to deliver the Excess amount on the delivery date as set forth in the PO, Seller may decline to provide the Excess amount, provided, that it is declined in a written notice which is delivered to Buyer within five (5) working days of Seller's receipt of Buyer's PO.
- 4.3 PO's will be issued electronically and shall be deemed received by Seller on the first working day following the date of issuance by Buyer. In the event Buyer and Seller wish to operate on consignment basis, a separate agreement will be set up.
- 4.4 Seller shall deliver the Product within the lead time as set forth in the Agreement, and if no lead time is included, the lead time shall be sixty (60) calendar days. Seller acknowledges that delivery of the Product on time and in full is an essential requirement of the Agreement.
- 4.5 Seller shall actively engage in digital collaboration via Buyer's enterprise collaboration portal and/or the designated B2B integration, including but not limited to the use of functionalities with regards to Purchase Order Management, Forecast management, collaborative supply planning and quality management.

#### 5 PRICE AND PAYMENT

- 5.1 Price shall be considered fixed but may be subject to price adjustment mechanisms as set out in the Agreement. Unless otherwise provided in the Agreement, the price includes (i) all costs to comply with the terms and conditions of the Agreement, (ii) any and all taxes, including sales, use, excise, value added and other taxes, and (iii) fees, duties, or other governmental impositions on the sale of the goods or services covered by the Agreement. If Buyer is required to pay any taxes or other impositions related to the Product in addition to the price indicated in the Agreement, Seller will promptly reimburse Buyer.
- 5.2 Seller will invoice Buyer for the amounts due under the Agreement. Buyer shall pay Seller all undisputed amounts via electronic funds transfer on the next available payment run date (twice monthly) following the date which is 120 days after receipt of the applicable undisputed invoice or receipt of the Product, whichever is later (unless otherwise specified in the Agreement, or, where a lower limit is mandated by applicable law, in line with the maximum permitted number of days' payment terms).. Buyer may set off any amount Seller owes Buyer against amounts payable under the Agreement or any other agreement.
- 5.3 Seller must submit all invoices via Buyer's preferred e-Invoicing provider (Tungsten Network), at no additional cost to Buyer, wherever permitted by applicable law, unless Buyer otherwise requires invoices to be sent to a designated e-mail or mailing address (labelled "*Mail To*", "*Send Invoice To*", or similar), as shown in the Agreement, or as otherwise communicated by Buyer from time to time via [www.kenvue.com/suppliers](http://www.kenvue.com/suppliers). Seller shall invoice Buyer in accordance with the Agreement and include on all invoices (a) a reference to the Agreement, (b) a description of the Products, (c) the

Price, (d) the PO number, (e) expenses and pass-through costs, and (f) sales or use taxes, if applicable.

- 5.4 Seller shall not invoice, and Buyer shall not be responsible for the payment of any charges, fees or expenses, including the price, that are invoiced more than ninety (90) days after the date of delivery of the Products.
- 5.5 Seller shall not suspend the delivery of Products in case Buyer reasonably disputes (part of) any invoice from Seller or its affiliates.

## 6 TERMINATION

- 6.1 Breach. Either party may terminate the Agreement upon written notice to the other party in the event of a material breach by the other of any obligation under the Agreement.
- 6.2 Insolvency. Each party may terminate the Agreement with immediate effect if the other party becomes insolvent or subject to any proceeding under any bankruptcy or any insolvency law.
- 6.3 Convenience. Except to the extent prohibited by applicable law, Buyer may partially or in whole terminate the Agreement for any reason or no reason prior to delivery of the applicable Product by providing written notice to Seller. Upon such termination, Seller will be entitled to reimbursement of reasonable and documented expenses actually incurred by Seller prior to such termination in connection with the Agreement.
- 6.4 Effect of termination. Upon termination of the Agreement, Seller shall deliver to Buyer all documentation relating to the Agreement, together with any of Buyer's goods, which are in Seller's custody or control. Buyer shall be entitled to enter Seller's premises, without prior notice, for the purpose of removing therefrom any of Buyer's goods or documents.
- 6.5 Meet or release. If, during the term of the Agreement, Buyer has an opportunity to purchase a product of like quality to the Product from another supplier at a total delivered cost to a Buyer site that is lower than the total delivered cost of the Product purchased from Seller, Buyer may notify Seller of such total delivered cost and Seller shall have an opportunity to revise the pricing of the Product on such a basis as to result in the same total delivered cost to Buyer within thirty (30) calendar days of such notice. If Seller fails to do so or cannot legally do so, then Buyer shall be entitled to (i) terminate the Agreement on thirty (30) days prior written notice without any penalty, liability or further obligation; (ii) purchase the similar product from other supplier(s) in which case any volume obligations, if applicable, of Buyer and Seller shall be reduced accordingly commencing thirty (30) days after notice is delivered to Seller; or (iii) continue purchasing under the Agreement.
- 6.6 Notwithstanding termination of the Agreement, the provisions of the Agreement shall continue to bind each party insofar as and for as long as may be necessary to give effect to their respective rights and obligations hereunder. Termination of the Agreement by Buyer shall be without prejudice to any rights and remedies Buyer may have under the Agreement.

## 7 DELIVERY

- 7.1 Shipping document. All shipments must be accompanied by a packing slip, which describes the Product and states the PO number, article number or material code, the quantity, and, if applicable, the batch or lot number, the manufacturing date, the expiry date and any special storage regulations. Seller must respect detailed logistical instructions from Buyer or any receiving company. Seller shall further include all required documents, including but not limited to the certificate of conformity and the certificate of analysis with all shipments of the Product.

- 7.2 Delivery. Seller shall deliver the Product as per the Incoterms stipulated in the Agreement. In the event no Incoterm is stipulated in the Agreement then delivery shall be DDP, Incoterms 2020, Buyer's location as indicated by Buyer. If Seller delivers DDP cross border, Seller shall ensure that Seller or its representative, and not Buyer, is acting as importer.
- 7.3 Product delivery data. Seller shall include on the shipping documents trade related information including country of origin, Harmonized System (HS) Code and customs value. In case of cross border delivery, Seller shall further have licenses or permits in place to the extent required and Seller shall ensure it fulfils all export control requirements.
- Seller shall assess whether goods have preferential status before shipment and where possible shall issue a proof of origin (e.g. EUR 1, invoice statement or long-term suppliers declaration).
- 7.4 Pallets. Seller shall comply with Buyer's Policy for Wood Pallets (available at [www.kenvue.com/suppliers/general-terms-and-conditions](http://www.kenvue.com/suppliers/general-terms-and-conditions)). Furthermore, Seller shall certify compliance with such policy at least annually. Such certification shall be sent to Buyer pursuant to the notice provisions set forth herein. Buyer has the right to reject any product or materials that fail to comply with this policy. Seller shall promptly replace at its own cost and expense, including reimbursement of freight and disposition costs incurred by Buyer, any Product delivered on such non-compliant Pallets.
- 7.5 Force Majeure. If either party is prevented from performing any of its obligations under the Agreement due to any cause which is beyond the non-performing party's reasonable control, including fire, explosion, flood, or other acts of god, war or civil commotion, acts of terrorism or failure of public utilities (a "**Force Majeure Event**"), such non-performing party shall not be liable for breach of the Agreement with respect to such non-performance to the extent any such non-performance is due to a Force Majeure Event. During any period of a Force Majeure Event, (i) Seller shall continue to perform to the fullest extent possible and, in case of any shortage, (ii) Seller shall allocate its available supply of Products such that, on a percentage basis, the reduction in the quantity of Products available to Buyer is no greater than the overall reduction in Products available by Seller and (iii) Buyer may terminate the Agreement without liability or compensation being due by Buyer.
- 7.6 Failure to supply. Notwithstanding any other provision in the Agreement, in the event that Seller is unable, or anticipates that it shall be unable to timely supply any Product in such quantities as foreseeable on the basis of the forecast and in compliance with the lead time set forth in the Agreement, due to a Force Majeure Event or otherwise, then:
- (i) Seller shall promptly notify Buyer thereof and provide details to Buyer in relation thereto such as the cause, the expected end date of the (possible) failure to supply and any mitigating actions (to be) undertaken by Seller;
  - (ii) Seller shall keep Buyer informed in accordance with article 7.6 (i) throughout the occurrence of the failure to supply;
  - (iii) if requested by Buyer: (a) Seller shall at its own expense make available to Buyer or its designee access to all intellectual property rights and any other technical and proprietary components, information and techniques necessary or helpful for Buyer to procure required Raw Materials or produce or arrange an alternative supplier for the manufacture of a product that is similar to the Product; (b) Seller shall at its own expense deliver any Product in progress to Buyer as well as, at acquisition cost, any Raw Materials of Seller requested by

Buyer in its possession; and (c) Seller shall at its own expense provide advice and consultation in connection therewith, including providing technical personnel; and

- (iv) in case the failure of supply is caused by a shortage of Raw Materials and/or manufacturing capacity, Buyer shall keep the right to the same quantities of Product in line with the forecast as before the occurrence of the failure to supply.

## 8 INSPECTION AND AUDIT

- 8.1. Buyer shall have the right, upon reasonable notice to Seller and during regular business hours, to inspect and audit the financial records in relation to any price adjustments stipulated in the Agreement, and to inspect and audit the facilities used by Seller for production and storage of the Product to assure compliance by Seller (and its suppliers) with cGMP and applicable rules and regulations and with other provisions of the Agreement. Seller shall within seven (7) days remedy or cause the remedy of any deficiencies that may be noted in any such audits. The failure by Seller to remedy or cause the remedy of any such deficiencies within such seven (7) day period shall be deemed a material breach of the Agreement. Seller acknowledges that the provisions of this article granting Buyer certain audit rights shall in no way relieve Seller of any of its obligations under the Agreement, nor shall such provisions require Buyer to conduct any such audits.

## 9 WARRANTIES/DEFECTIVE PRODUCT/CORRECTIVE ACTION

- 9.1. Warranties. Seller warrants that any Product (and the manufacture, packaging, storage, handling and delivery thereof, to the extent they are included in the PO) supplied to Buyer shall (i) comply in all respects with the Specifications, (ii) comply to all applicable laws and regulations and industry standards (including, without limitation, REACH) of the countries of manufacture and delivery (iii) be fit and sufficient for their intended purpose, and (iv) be free from defects in design, material and workmanship. Seller shall not employ equipment (Buyer dedicated or otherwise), which makes contact with the Product to manufacture products, which are significantly hazardous, toxic or poisonous materials without Buyer's specific prior written approval.
- 9.2. Latent Defects. Buyer will, in due course of business, inspect the delivered Products to check on external damages to packaging, identity and quantity and notify Seller of any such deficiencies as soon as reasonably possible. Buyer will notify Seller of any latent defects as soon as reasonably practicable after they are discovered. The receipt of Products, the inspection or non-inspection of or payment for the Products, will not constitute acceptance of the Products and will not impair Buyer's right to (i) reject nonconforming Products, (ii) recover damages and/or (iii) exercise any other remedies to which Buyer may be entitled.
- 9.3. Defective Product. Without prejudice to any other remedy that Buyer may have, Buyer may elect to issue a debit note to Seller or require Seller to promptly replace at its own cost and expense any Product that does not comply with the warranties under article 9.1 ("**Defective Product**"). Seller shall properly tag and store in restricted areas such Defective Product. To the extent possible, parties shall mutually agree on the disposal, destruction, returning or reworking of the Defective Product, it being understood that (i) all related costs and expenses shall be borne by Seller and (ii) in case of urgency, Buyer or its Affiliate shall have the right to take such a decision independently from Seller and provide Seller promptly with a written notice thereof. Buyer shall also have the right to charge Seller for all costs and expenses of disposal, destruction, returning or reworking of any affected raw materials, packaging materials and/or (semi-)finished products should the Defective Product be detected during the production or assembly processes.

- 9.4 Related Claims. In the event Seller receives any Product complaints, or any complaints with respect to any other products manufactured for other customers of Seller that utilize the same or a substantially similar formulation or manufacturing process as the Product (unless the complaint information would be reasonably expected to be unique to the other product and not applicable to the Product, e.g., relating to the secondary packaging), Seller shall promptly notify Buyer of such complaint and in no event more than forty-eight (48) hours after receipt of such complaint. Seller shall conduct an analysis of the root cause of any such complaint, shall report to Buyer on any corrective action to be taken, and shall at all times take reasonable account of Buyer's suggestions related to such corrective action or other quality-related matters
- 9.5 Corrective Action. In the event any governmental agency having jurisdiction shall request or order, or if Buyer shall determine to undertake, any corrective action with respect to any of its finished products (incorporating the non-complying or defective Product), including any recall or market action, and the cause or basis of such recall or action is attributable to Seller, then Seller shall be liable, and shall reimburse Buyer for all costs of such action including the cost of any finished product which is affected thereby, without prejudice to any other right or remedy Buyer may have.
- 9.6 Quality Agreement. Seller shall at all times comply with the terms of the quality agreement or any similar requirements as agreed with the Quality Assurance Department of Buyer. In the event of a conflict between the terms of the Quality Agreement and those of these Terms and Conditions, the terms of the Quality Agreement shall prevail to the extent related to quality topics.

## 10 INSURANCE

- 10.1 During the term of the Agreement and two years from delivery of a Product, Seller shall maintain coverage including coverage for general liability with limits of not less than EUR 10,000,000 per occurrence and EUR 10,000,000 annual aggregate. Limits may be achieved via a combination of primary and umbrella/excess insurance. Buyer, its subsidiaries, and its directors, officers and employees shall be additional insured under Seller's policy.
- 10.2 The amount of insurance provided in the aforementioned insurance coverage shall not be construed to be a limitation of the liability on the part of Seller. The carrying of insurance described shall in no way be interpreted as relieving Seller of any responsibility or liability under the Agreement.

## 11 CONFIDENTIALITY

- 11.1 Seller shall keep confidential the terms and conditions of the Agreement and all information disclosed by or on behalf of Buyer and its affiliates or otherwise learned or obtained by Seller in connection with the Agreement or the performance hereof. Seller shall not use any of this information other than in connection with the performance of the Agreement and shall not disclose any of this information except to the extent required by law and then only after prior written notice to Buyer.
- 11.2 Seller shall implement appropriate technical, physical, and organizational measures to ensure an appropriate level of information security.

## 12 INTELLECTUAL PROPERTY

- 12.1 All drawings, specifications and other copyrightable documents and any molds, tools, equipment, recipes, trade secrets, patents, trademarks or the like furnished by or on behalf of Buyer are for use solely with respect to the Agreement. Seller (i) will not have any rights to, property or interest



in the same except to the extent necessary to execute the Agreement, (ii) will be responsible for maintaining the same in proper working order, subject only to normal wear and tear and (iii) upon completion (or termination or expiration) of the Agreement, will promptly destroy or return these items, as requested by Buyer.

- 12.2 With respect to new or modified Products, the parties agree that all rights, title, and interest in any and all inventions (including discoveries, ideas, or improvements, whether patentable or not), which are conceived or made during or after the term of the Agreement and are (i) based upon or arising from Buyer's information, or (ii) developed specifically for Buyer hereunder, will belong to Buyer, and Seller hereby assigns all such rights, title, and interest to Buyer. The execution of the Agreement will not affect the pre-existing intellectual property rights of the parties.

### 13 INDEMNIFICATION

- 13.1 Indemnification by Seller. Seller shall indemnify and hold harmless Buyer (and its Affiliates) from and against any and all damages, liabilities, claims, costs, charges, judgments and expenses (including reasonable attorneys' fees) (collectively "**Damages**") that may be sustained, suffered or incurred by Buyer (or its Affiliates), arising out or resulting from (i) any Defective Product, (ii) breach by Seller of any warranty, representation, covenant or agreement made by Seller under the Agreement, (iii) any alleged or actual, direct or contributory infringement or misappropriation of any patent, copyright, trade secrets, or other proprietary rights of any third party arising from the purchase, use, importation or sale of the Product, or (iv) Seller's negligence or wilful misconduct; provided that the foregoing shall not apply to the extent arising from Buyer's negligence or wilful misconduct.
- 13.2 Exclusion of indirect and consequential damages. Neither party shall be liable for incidental, indirect, special or consequential damages of any kind or for loss of profits or revenue or loss of business arising out of, or in connection with the Agreement or the termination thereof whether or not Buyer was advised of the possibility of such damage.

### 14 MISCELLANEOUS

- 14.1 Seller shall treat Buyer with "most favoured customer" status and give Buyer priority over all other customers in connection with the allocation of Products or similar products, including but not limited to the allocations of raw materials, labour and production capacity, and shall always, also in case of a Force Majeure Event or failure to supply pursuant to article 7.5, prioritize the manufacturing and supply of Product pursuant to the Agreement.
- 14.2 If any provision of the Agreement is or becomes invalid, illegal or unenforceable, the other provisions will not be affected or impaired. The parties will then negotiate in good faith to substitute the one provision that is invalid, illegal or unenforceable.
- 14.3 Buyer may transfer or assign the Agreement in whole or in part without consent of Seller. Seller may not assign the Agreement without express written consent of Buyer.
- 14.4 Any dispute will be resolved exclusively in the appropriate court located in the city of Buyer's registered office. Each Party consents and agrees to the jurisdiction and venue of such courts. The Agreement shall be governed by the law of the country of Buyer's registered office. The United Nations Convention on Contracts for the International Sale of Goods of 1980 will not apply to the Agreement.