

## GENERAL TERMS AND CONDITIONS OF PURCHASE

### STERNMAID ASIA PACIFIC SDN BHD

The Supplier agrees to supply the goods/products and/or services (“**Goods**”) to us, **STERNMAID ASIA PACIFIC SDN BHD**, who is the buyer / customer (“**Buyer**”) in accordance with and subject to the following terms and conditions of supply:

#### 1. DEFINITIONS

1.1 Capitalized terms used in these Terms shall have the respective meanings ascribed to them as follows:

“ <b>Business Day</b> ”	any day (excluding Saturday, Sunday and public holidays) on which commercial banks in Kuala Lumpur are open for business;
“ <b>Buyer</b> ” or “ <b>us</b> ”	SternMaid Asia Pacific Sdn Bhd, a company incorporated in Malaysia and having its business office at Jalan Teknologi Perintis 1/3, Taman Teknologi Nusajaya, 79200 Iskandar Puteri, Johor, Malaysia;
“ <b>Goods</b> ”	the goods expressly described in the Purchase Order;
“ <b>Insolvency Event</b> ”	where a Party becomes insolvent or unable to pay its debts as they mature, or there are reasonable grounds to suspect that a Party is insolvent or may be about to become insolvent, or a Party makes any arrangements or composition with or for the benefit of its creditors, has an administrator, receiver, liquidator or trustee in bankruptcy appointed,

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or where the Supplier ceases to trade or encumbers or in any way charges any of the Goods;

<b>“Parties”, “Party”</b>	the Supplier and/or the Buyer;
<b>“Purchase Order”</b>	the Buyer’s order for the Goods;
<b>“Purchase Price”</b>	the purchase price of the Goods as indicated in the Purchase Order;
<b>“RM”</b>	Ringgit Malaysia, the lawful currency of Malaysia;
<b>“Supplier”</b>	the Supplier as expressly described in the Purchase Order;
<b>“Terms”</b>	the terms and conditions that are set out herein in relation to the supply of the Goods by the Supplier to us and shall be read together with the Purchase Order executed by both the Supplier and the Buyer.

- 1.2 Words denoting the singular include the plural number and vice versa. Words importing any gender include all genders.
- 1.3 The headings and sub-headings in these Terms are inserted for convenience only and shall be ignored in construing the provisions of these Terms.
- 1.4 Any reference to a Clause shall be a reference to a clause within these Terms. Save where the contrary is indicated, any reference to these Terms shall be construed as a reference to these Terms as may have been or may from time to time be amended, varied, novated or supplemented.
- 1.5 If any act would be required to be performed on or within a period ending on a day which is not a Business Day, the act shall be deemed to have been duly performed if performed on the next Business Day after that day.

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1.6 Nothing in these Terms or the Purchase Order shall constitute or be deemed to constitute a partnership between the Parties hereto and neither of them shall have any authority to bind the other in any way nor shall the terms of the Purchase Order and these Terms be construed to constitute either Party the agent of the other Party hereto.

## **2. RELEVANT CONDITIONS; APPLICABILITY**

2.1 The Buyer shall purchase from the Supplier and the Supplier shall sell to the Buyer the Goods during the term and subject to these Terms and the terms of the Purchase Order. Unless otherwise agreed to in writing by the Parties, these Terms shall apply to all transactions between the Supplier and the Buyer for the supply of Goods to the Buyer, including future dealings with the Supplier for the supply of Goods to the Buyer.

2.2 Unless a customized agreement has been entered into between the Supplier and the Buyer for the sale and purchase of the Goods (whereupon the terms of such customised agreement shall prevail over these Terms), all orders by us for the Goods shall be governed by the terms in the Purchase Order and these Terms. Any other terms and conditions in any other documents, including any terms and conditions stipulated by the Supplier which are in rejection of, in addition to or inconsistent with these Terms and the terms in the Purchase Order shall not be binding upon the Buyer unless agreed to in writing by the Buyer. The Supplier expressly acknowledges that in the event these Terms and any terms in the Purchase Order are inconsistent with any other documents, the terms of the Purchase Order and these Terms shall prevail. In the event the terms of the Purchase Order are inconsistent with these Terms, the terms of the Purchase Order shall prevail.

2.3 No variations to these Terms or the terms and conditions in the Purchase Order shall be binding unless agreed to in writing by the Buyer.

2.4 Any facsimile and/or electronic communication between the Parties shall be effective as originals and shall be considered to be in "writing" between the Parties.

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### 3. ORDERS

3.1 The Buyer shall order the Goods by submitting a Purchase Order (in such format as may be prescribed by the Buyer from time to time) to the Supplier, which Purchase Order may be accepted or rejected by the Supplier in accordance with Clause 3.2 below. Each Purchase Order shall include the following details:

- i) description of the Goods;
- ii) unit price;
- iii) quantity;
- iv) total price;
- v) delivery date
- vi) delivery and payment terms; and
- vii) place of delivery.

3.2 A Purchase Order shall be effective for a period of seven (7) Business Days from the date of the Purchase Order, during which time it may be accepted by the Supplier in writing and sent to the Buyer by email and/or facsimile. Any acceptances which are received after this period or which differ from the terms of the Purchase Order shall be deemed as new offers and shall require the Buyer's written acceptance. Any changes to the Purchase Order must be expressly pointed out by the Supplier to the Buyer.

3.3 The Buyer may request that changes be made to any part of the Goods that have not been delivered by serving a notice in writing of such changes and delivered to the Supplier no later than seven (7) Business Days prior to the scheduled delivery date. The Supplier may only reject a change requested by the Buyer if it is reasonable to do so. The Supplier shall inform

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the Buyer if the such change requested would, in the Supplier's reasonable opinion, cause changes to the Purchase Price, and shall only effect delivery of the changed Goods if any such changes to the Purchase Price is agreed in writing by the Buyer.

- 3.4 Each Purchase Order accepted by the Supplier (including any secondary document attached thereto) is deemed to incorporate these Terms. The terms of the Purchase Order and these Terms shall constitute the entire agreement between the Parties in respect of each Purchase Order which has been accepted by the Supplier in accordance with these Terms.
- 3.5 Where Parties have agreed to successive contracts to deliver Goods over a period of time, the schedule of deliveries specified by the Buyer shall be binding unless the Supplier has objected in writing within five (5) Business Days of receipt of the schedule and the Buyer has thereafter agreed to a revised delivery schedule.

#### **4. PRICE AND PAYMENT**

- 4.1 The Purchase Price as specified in the Purchase Order shall be binding. The Purchase Price shall include any sale and services tax or value added tax or any other similar applicable taxes, duties, levies or charges in any jurisdiction levied in relation to the Goods or the delivery thereof. Unless otherwise agreed in writing, the Purchase Price shall also include all transport and despatch costs as well as packaging costs. Any arising stamping costs, discounts or other charges shall be borne by the Supplier. Transportation and despatch respectively shall be at the risk of the Supplier, unless the Buyer carries out the transportation itself.
- 4.2 Unless otherwise agreed to by the Parties, including where specific payment terms have been agreed to and set out in the Purchase Order, the Buyer shall pay the full amount invoiced by the Supplier within 30 days of receipt of the invoice. The Supplier shall provide the following on all of the invoices: details of the Goods ordered and their respective supplier number and the Purchase Order number. The Buyer shall not be liable for any delays in payment resulting from the failure of the Supplier to provide the aforesaid details.

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4.3 The Supplier is not authorised to assign any claims against the Buyer to a third party unless the Buyer has expressly consented in writing to such assignment.

4.4 The Buyer is entitled to all rights of retention or set-off by virtue of statute, applicable laws or contractual agreement.

## 5. DELIVERY

5.1 Unless otherwise agreed in writing between the Parties, including where otherwise expressly set out in the Purchase Order, all deliveries of Goods from the Supplier shall be made “Delivery Duty Paid” (“**DDP**”) to such address as stipulated by the Buyer and accepted by the Supplier. The Term “DDP” shall have the meaning as defined in the latest version of INCOTERMS published by the International Chamber of Commerce in Paris, France at the time of the Purchase Order.

5.2 Partial delivery of the Goods is not acceptable except with the Buyer’s express written consent.

5.3 Time for delivery as stated in the Purchase Order shall be of the essence and binding and any specific periods stipulated for delivery shall start to run from the date of the Purchase Order. Without prejudice to the obligation to deliver the Goods at the agreed delivery periods or dates, the Supplier shall provide written notice to the Buyer immediately upon becoming aware that it will not be able to meet its obligations to delivery the Goods on time. In the event of delay in delivery of the Goods by more than 1 week (7 days), the Buyer will be entitled to reduce the Purchase Price by 0.25% for each additional, full week of delay.

5.4 The Supplier shall provide the following on all of the despatch documents and delivery certificates: details of the Goods ordered and their respective supplier number; and the Purchase Order number. The Buyer shall not be liable for any delays resulting from the failure of the Supplier to provide the aforesaid details.

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5.5 The place for the performance of the agreement to provide the Goods shall be the agreed place of delivery as specified in the Purchase Order.

5.6 The Buyer shall not be obligated to pay for the Goods when finally delivered if they are not free from errors, damages, defects, shortages and non-conformities.

## **6. TITLE AND RISK**

Except as otherwise agreed in writing, title in and risk of damage to or loss of the Goods shall pass to the Buyer on delivery.

## **7. QUALITY ASSURANCE, WARRANTIES**

7.1 The Supplier warrants that at the time of delivery, the Goods will –

- i) in all respects comply with the Food Act 1983 of Malaysia and all applicable laws, guidelines, regulations and rules;
- ii) comply with the latest technical standards set out in applicable current national and international statutory provisions, regulations and directives from the relevant authorities, professional organisations and trade associations as well as the specifications and quality requirements contained in the Purchase Order; and
- iii) be of merchantable quality and correspond with the description given by the Supplier.

7.2 Where the Goods are supplied with a date stamp as to their shelf life (e.g. minimum shelf-life date, consumption date, expiry date, “best before” date or “use by” date) indicating the time during which the Goods can be made available for sale or marketing, the remainder of the shelf-life of the Goods shall be at least seventy-five per cent 75% of the total shelf life of the

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said Goods (i.e. the period between manufacture and the stated date). Goods delivered which do not fulfil this requirement shall be deemed defective.

- 7.3 The Supplier shall expressly notify the Buyer in writing of any possible limitations on use of the delivered Goods and/or the lack of compliance with any of the above warranties.

## **8. GUARANTEE; INSPECTION**

- 8.1 The Supplier guarantees that the delivered Goods shall comply with any applicable samples provided as well as any specific criteria set out in the Purchase Order and/or these Terms and/or as otherwise agreed in writing between the Parties. If no specific criteria as to quality have been specified, then the Goods must be of usual commercial quality. Any specifications as to quality or quantity as well as other specifications contained in the Purchase Order must be strictly observed.

- 8.2 The Supplier further guarantees that the delivered Goods will be in all respects free from defects, in particular in relation to the composition, construction and labelling of such Goods. Further the Supplier warrants that the Goods will be freely marketable in Germany and/or the country or countries specified in the Purchase Order, and that the distribution of the Goods neither breaches legal regulations nor encroaches on the rights of third parties, in particular trademark rights and distribution relationships.

- 8.3 Insofar as immediate inspection of the delivered Goods is practicable in the due course of business, the Buyer shall, upon delivery, inspect the Goods at its own cost. If any defects, shortages or defaults in respect of the Goods are identified during the inspection, or if any of the Goods is found not to be in compliance with agreed specifications, the Buyer shall notify the Supplier of the same –

- i) within two (2) weeks of the inspection in respect of defects, shortages, defaults or non-compliance with agreed specifications which would be apparent from a reasonable inspection on delivery; and

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- ii) in the case of defects, shortages, defaults or non-compliance of agreed specifications which are not identifiable during the inspection, but discovered thereafter (e.g. hidden defects), within two (2) weeks from discovery thereof,

but in no event shall any claim be made in respect of the Goods after three (3) years from the date of delivery of the Goods. The time limits set out in this Clause 8.3 above shall not apply in the event that the defects and non-conformities in the Goods have arisen from circumstances of which the Supplier was aware of or which they would have been aware of had they not been grossly negligent.

8.4 The Supplier agrees that the inspection of the Goods may be carried out on a representative sample basis where appropriate and reasonable depending on the nature and extent of the delivery as well as to the usual course of business. If the results of this sample inspection reveal any defects, shortages, damage or non-compliance with agreed specifications relating to the quality or quantity of the goods, the Buyer is entitled to enforce its rights under the Purchase Order and these Terms in relation to entire delivery.

8.5 In the event of a valid claim being made by the Buyer in respect of the Goods, the Supplier will be obliged to bear all necessary expenses for the purpose of remedying the defects or non-conformities or for delivering replacement Goods (including all costs involved in disassembling or re-assembling the Goods). The Supplier is also fully liable for all costs arising or increasing where Goods have been delivered to a location other than the place of delivery stipulated in the Purchase Order.

## **9. RECALL, WARNING AND OTHER SAFETY MEASURES**

9.1 Where the Supplier is required under applicable laws or regulations to provide any notification or information to authorities in respect of the Goods (e.g. information that the Goods could potentially endanger the health or security of persons or otherwise, or that the Goods do not

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comply with other requirements for duly placing the Goods on the market) the Supplier must inform the Buyer in writing of the same without delay.

- 9.2 If a warning, recall or other such measure is issued or taken in relation to the Goods (e.g. product safety measures) whether by the authorities pursuant to applicable laws and regulations, or by the supplier or earlier supplier or a manufacturer, the Supplier shall be liable to the Buyer for all resulting damages incurred, including the costs of the withdrawal of the Goods in the case where the Supplier's actions or inactions are responsible for the measures taken.
- 9.3 Where a warning, recall or other necessary measure in relation to the Goods (e.g. product safety measures) is issued or taken by the Buyer, the Supplier shall be given the prior opportunity to be heard and to make representations (provided that this is practicable and reasonable taking into account the potential urgency of the measure to be taken). The Supplier shall be liable to the Buyer for all resulting damages arising from the measure taken, including the costs for the implementation of the measure and the withdrawal of the Goods in the case where the Supplier's actions or inactions are responsible for the measures taken.
- 9.4 If any actual or alleged health risks are made public, in particular in the media, which advise against the purchase or use of the Goods, or products having the Goods as their constituents, the Buyer is entitled to –
- i) cancel any outstanding orders for such Goods that have not yet been delivered; and
  - ii) to require the reimbursement by the Supplier of any Purchase Price paid in respect of such Goods which have already been delivered to the Supplier, whereupon the Buyer shall return the Goods to the Supplier.

The right of the Buyer to cancel orders and/or to return Goods may be exercised at any time within one (1) month of the warning or announcement being made public for the first time. The Supplier shall be liable for any damages incurred by the Buyer as a result of the warning and/or

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cancellation, including all consequential costs, to the extent that the Supplier is responsible for the cause of the warning. Further claims on the Buyer's part due to defective Goods shall remain unaffected.

- 9.5 Clause 9.4 shall apply correspondingly to warnings for products which are comparable with the Goods or which have comparable constituents.

## **10. TRACEABILITY**

The Supplier shall guarantee the continuous and complete traceability of the Goods delivered by it pursuant to all applicable legal requirements then in force. In addition to the Goods themselves, the requirement of traceability also applies to their constituents (ingredients /raw materials, additives /auxiliary substances), the time of manufacture/production, the packaging materials as well as the characteristics of the manufacturing process. Where required, such as in cases of an official letter or a customer complaint, the Supplier is obliged to provide to the Buyer, on demand, any necessary information relating to the Goods.

## **11. CERTIFICATE OF ORIGIN**

If required by the Buyer for the potential export of goods from Malaysia, the Supplier shall make available to the Buyer without delay and free of charge, any necessary or appropriate documents or declarations (declarations of origin, health certificates, etc) as may be required.

## **12. LIABILITY; INDEMNIFICATION**

- 12.1 The Supplier will keep harmless, defend and indemnify the Buyer from and against all claims, damages, losses, demands, liabilities, costs, expenses and reasonable legal fees ("**Losses**") arising out of the following:

- i) any misrepresentation or breach of the terms and conditions of the Purchase Order or these Terms by the Supplier;

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- ii) the Supplier's action(s), inaction(s), negligence, and/or misconduct; and/or
  - iii) non-performance by the Supplier of any of its obligations under the terms of the Purchase Order and these Terms.
- 12.2 In particular and without prejudice to the generality of Clause 12.1 above, the Supplier will keep harmless, defend and indemnify the Buyer from and against all Losses incurred by it arising from third party claims made against the Buyer on account of breaches by the Supplier of its obligations under Clause 12.1 i), ii) and iii) above.
- 12.3 The Supplier shall ensure that the Goods supplied shall not infringe any industrial property rights of third parties in countries in which the Supplier manufactures the Goods or has the Goods manufactured on its behalf. The Supplier shall indemnify the Buyer from all Losses incurred by it arising from third party claims made against the Buyer as a result of the infringement of any industrial property rights.
- 12.4 In the event that a product liability claim is made against the Buyer due to a defect or fault in the Goods provided by the Supplier, whereby the cause of the default or fault is within the Supplier's field of control and organisation, and in respect of which the Supplier would be liable to third parties, the Supplier shall, upon first demand by the Buyer, fully indemnify the Buyer from all Losses incurred by it arising therefrom. In this regard, the Supplier warrants that it will maintain an extensive product liability insurance policy.
- 12.5 The Parties expressly agree that there shall be no limitation to the Supplier's liability towards the Buyer in the event of any breach by the Supplier of the terms of the Purchase Order or these Terms, on in respect of any other breach of contract, negligence or other tort committed by the Supplier.

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### **13. TERMINATION**

13.1 The Purchase Order and these Terms shall be terminated by a notice in writing with immediate effect given by the one Party to the other Party if:

- i) the other Party commits a breach of its obligations herein contained and such breach is not remedied within 7 Business Days from the date of the notice of breach served on it by the first Party;
- ii) an Insolvency Event happens to the other Party;
- iii) the other Party has any distress or execution of the like levied upon any of its goods or effects; or
- iv) the other Party ceases, or threatens to cease, to carry on business.

13.2 Upon the effective termination of these Terms, without prejudice to the Buyer's rights under applicable laws to any necessary legal actions against the Supplier for any breach of contract:

- i) payments owing by the Buyer to the Supplier that are only for Goods properly delivered to the Buyer shall be immediately due and the Buyer shall make full settlement of such payments to the Supplier within 7 Business Days from the effective date of termination, regardless of any credit terms accorded to the Buyer by the Supplier prior to termination; and
- ii) any Goods already paid for by the Buyer to the Supplier shall be immediately delivered to the Buyer in good and proper condition within 7 Business Days from the effective date of termination.

### **14. CONFIDENTIALITY**

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- 14.1 The Supplier shall treat as confidential all technical and commercial information which it obtains or becomes aware of through the business relationship with the Buyer. This confidential obligation extends to all information which the Supplier receives from the buyer in relation to the Goods, including all documents, drawings, guidelines, samples, models, tools and other information (“**Confidential Information**”). Such Confidential Information remains the sole property of the Buyer and shall not be used or passed on to third parties without the express consent in writing of the Buyer.
- 14.2 Upon termination of the relevant agreements between the Parties, the Supplier shall comply with the Buyer’s instructions as to whether the Confidential Information should be completely destroyed and deleted or returned. The Supplier does not have any right of retention in relation to such Confidential Information.
- 14.3 The Supplier undertakes to must impose corresponding confidentiality obligations on its employees and sub-contractors in respect of the Confidential Information.
- 14.4 The Supplier may disclose information which would otherwise be confidential pursuant to Clause 14.1 if and to the extent disclosure is:
- i) reasonably required to give effect to these Terms;
  - ii) required by any law, regulatory or governmental body;
  - iii) in relation to information that has come into the public domain through no fault of the disclosing Party; or
  - iv) reasonably required to enable the Supplier to enforce its rights under these Terms,

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PROVIDED THAT any such information disclosed pursuant to this Clause (save for disclosures required by law) be disclosed only after prior written notice of at least 7 Business Days have been given to the Buyer.

14.5 The obligations contained in this Clause 14 shall survive the termination of these Terms.

## 15. NOTICE

15.1 Any notice required or permitted to be given under these Terms shall be in writing, and may be given by personal service, registered mail, or electronic mail to the Supplier at the address of the Supplier as set out in the Purchase Order and to the Buyer at the following address:

Buyer

Address: SternMaid Asia Pacific Sdn Bhd  
Jalan Teknologi Perintis 1/3,  
Taman Teknologi Nusajaya,  
79200 Iskandar Puteri, Johor, Malaysia

Electronic mail address: [info@sternmaid.com.my](mailto:info@sternmaid.com.my)

Attention to: Lee Wai Peng

15.2 Any notice so given shall be deemed to be received if it is sent by personal service at the time of such service; if it is sent by registered mail, upon receipt or 3 Business Days after posting; or if it is sent by electronic mail, at the time the electronic mail leaves the outbox of the sender.

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## **16. ASSIGNMENT**

The Supplier shall not assign any of its rights under the terms of the Purchase Order and these Terms voluntarily or involuntarily, without the written consent of the Buyer. The Buyer, however, shall be entitled to assign its rights to any party without the consent of the Supplier. The Supplier shall not delegate any performance under the terms of the Purchase Order and these Terms voluntarily or involuntarily.

## **17. VARIATIONS**

These Terms shall not be varied unless such variation shall be expressly agreed in writing by each Party.

## **18. WAIVER**

No failure or delay by a Party in exercising any right power or privilege hereunder shall operate as a waiver nor affect the other Party's liability hereunder nor shall any single or partial execution of any right power or privilege hereby conferred preclude any further exercise thereof or the exercise of any other right power or privilege so conferred. The rights and remedies provided in these Terms are cumulative and not exclusive of any rights or remedies provided by law

## **19. SEVERABILITY**

If any one or more of the provisions in these Terms shall be declared invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired by such invalidity, illegality or unenforceability and these Terms shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof. The

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Parties may but shall not be obliged to substitute the invalid, illegal or unenforceable provision with a new, valid and legal stipulation.

## **20. APPLICABLE LAW; DISPUTE RESOLUTION**

20.1 The terms of the Purchase Order and these Terms shall be governed by the laws of Malaysia.

20.2 In the event of a dispute regarding any claims or obligations of either or both of the Parties arising from or in connection with the terms of the Purchase Order and/or these Terms, the Parties shall negotiate to solve the conflict in an amicable and commercially reasonable manner.

20.3 If an amicable solution cannot be reached, the Parties agree that such dispute, controversy or claim shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“**SIAC**”) in accordance with the Arbitration Rules of the Singapore International Arbitration Center. The seat of the arbitration shall be in Singapore and the language of the arbitration shall be in the English language. The arbitration shall be presided by a sole arbitrator appointed by the Parties, or failing agreement within ten (10) Business Days for the demand for arbitration, then any Party to the dispute shall be entitled to forthwith call upon the President of SIAC Court of Arbitration to nominate the arbitrator. The person so nominated shall be the duly appointed arbitrator in respect of the dispute.

## **21. FORCE MAJEURE**

21.1 Neither Party shall be liable to the other Party for non-performance or delay in performance of any of its obligation under the terms of the Purchase Order and these Terms due to causes reasonably beyond its control including, but not limited to, fire, flood, pandemic, epidemic, natural disasters, strikes, lock-out, labour disputes, other industrial disturbances, lack of raw materials, unavoidable accidents, governmental regulations, war, riots and insurrections.

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21.2 The list of force majeure events indicated above is not exhaustive, and the principle of ejusdem generis is not to be applied in determining whether a particular act or event qualifies as a force majeure event. Upon the occurrence of any force majeure event, the affected party (“**Affected Party**”) shall immediately notify the other party (“**Non-Affected Party**”) with as much detail as possible and shall promptly inform the Non-Affected Party of any further developments from time to time.

21.3 Immediately after the force majeure event is removed, the Affected Party shall promptly perform/resume all its obligations under the terms of the Purchase Order and these Terms. Should any event of force majeure continues for a period of 30 days or more, the Non-Affected Party may immediately terminate the terms of the Purchase Order and these Terms by notice in writing to the Affected Party and the provisions of Clause 13.2 shall apply.

## 22. RELATIONSHIP OF THE PARTIES

Nothing herein contained shall constitute a partnership, joint-venture, agency, employer-employee or any other relationship other than the customer-seller relationship stipulated under the terms of the Purchase Order and these Terms between the Parties hereto.

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