

# GENERAL TERMS AND CONDITIONS OF MELROB US INC.

## 1. TERMS AND CONDITIONS

All contracts for sale of goods by or on behalf of Melrob US Incorporated ("Seller") are made subject to these Terms and Conditions of Sale ("Terms"), and Seller will not be bound (and §672.207 of the Florida Uniform Commercial Code — Sales (or applicable equivalent) shall not be deemed to bind Seller) by any proposed variations from or additions to these Terms contained in any purchase order, proposal, or other document submitted by or on behalf of the purchaser of the goods ("Buyer"). By ordering such goods, Buyer shall be conclusively deemed to have agreed to these Terms. No variation from these Terms shall be binding upon Seller unless in a writing signed by an authorized representative of Seller (a "Seller Writing").

## 2. ORDERS

No order for goods placed by Buyer shall be binding on Seller unless and until accepted by Seller's written acknowledgment. Once accepted, an order may not be changed or cancelled by Buyer unless expressly agreed to by, and on the terms of, a Seller Writing.

## 3. PRICE

The purchase price of goods under any contract shall be the price Seller quoted to Buyer for the order or, where no price has been quoted or a quoted price is no longer valid, the price listed in Seller's published price list current at the date of acceptance of the order. Seller may, by giving notice to Buyer at any time before delivery, increase the price to reflect any increase in the cost to Seller due to any factor beyond the reasonable control of Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, or significant increase in the costs of labor, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the goods requested by Buyer, or any delay caused by any instructions of Buyer or failure of Buyer to give the Seller adequate information or instructions. In addition to the purchase price, Buyer shall be responsible to pay all value added, sales, use, excise, and any other taxes applicable to the purchase.

## 4. SHIPMENT AND RISK OF LOSS

Unless otherwise stated in Seller's written acknowledgment, all sales are made DDP [Buyer's place of business] (Incoterms 2010). Any date quoted for delivery of goods is approximate only, Seller shall not be liable for any delay in delivery of goods howsoever caused, and such delay shall not entitle Buyer to repudiate or cancel any order. Goods may be delivered by Seller before the quoted delivery date upon giving reasonable notice to Buyer.

## 5. SELLER'S LIMITED WARRANTY

Seller warrants that at the time Seller's delivery obligations are complete, the goods will conform, subject to customary variations and to the last sentence of this paragraph, to the specifications for such goods set forth as of the time of Buyer's order on Seller's website or Seller's written acknowledgment provided to Buyer. THIS WARRANTY IS EXCLUSIVE, AND SELLER SPECIFICALLY EXCLUDES ALL OTHER WARRANTIES AND REPRESENTATIONS CONCERNING THE GOODS (WHETHER IMPLIED BY LAW OR OTHERWISE) TO THE FULLEST EXTENT PERMITTED BY LAW. WITHOUT LIMITING THE FOREGOING, SELLER DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ANY WARRANTY THAT THE USE OR SALE OF THE GOODS, WHETHER ALONE OR IN COMBINATION WITH OTHER GOODS, WILL NOT INFRINGE THE CLAIMS OF ANY PATENT, TRADEMARK OR OTHER PROPRIETARY RIGHTS OF ANY PARTY. Seller reserves the right to make any changes in the specification of the goods that are reasonably required to conform with any applicable safety or statutory requirements or, where the goods are to be supplied to Seller's specification, which do not materially affect their quality or performance.

## 6. NOTICE OF NONCONFORMITY; BUYER'S EXCLUSIVE REMEDY

Buyer shall inspect all goods upon delivery. If Buyer fails (a) within seven (7) days of delivery, to notify Seller in writing and with particularity of any failure of the goods to conform in any respect to the contract and (b) to provide Seller reasonable opportunity to inspect the goods before they have been processed, combined with any other material, disposed of or damaged in any way, the goods shall conclusively be deemed to conform and to have been irrevocably accepted by Buyer. Failure of Buyer to give such notice shall be deemed to be a waiver by Buyer of all claims with respect to the subject goods. SELLER'S SOLE AND EXCLUSIVE LIABILITY TO BUYER, AND BUYER'S EXCLUSIVE REMEDY, FOR THE NONCONFORMITY OF ANY GOODS TO SELLER'S WARRANTY HEREUNDER IS LIMITED, AT SELLER'S OPTION, TO REPLACEMENT OF SUCH GOODS WITHOUT CHARGE OR REFUND OF THE PURCHASE PRICE PAID FOR THE NONCONFORMING PORTION, UPON THE RETURN OF SUCH GOODS AT BUYER'S EXPENSE AND IN ACCORDANCE WITH SELLER'S INSTRUCTIONS.

## 7. TERMS OF PAYMENT

7.1 Payment terms are Net 30 days from the invoice date. Buyer shall pay the invoice without any deduction whatsoever by way of set-off, counterclaim, withholding (including taxes), discount or otherwise. Past due balances will incur interest at the lower of 3% per annum above the [Barclays Bank Plc] base rate from time to time, compounded monthly, or the highest rate permitted by applicable law, and Buyer shall be liable to Seller for all costs of collection, including attorney's fees and other expenses. Each shipment shall constitute a separate and independent transaction and Seller may recover for each such shipment without reference to any other. Seller shall retain a security interest in the goods and all proceeds thereof until payment has been made in full, and shall have all the rights of a secured creditor under applicable law. Buyer shall provide any documentation reasonably requested by Seller to record Seller's interest in such goods.

7.2 If for any reason Seller determines that it has concerns about the financial condition of Buyer, the Buyer's payment history or any other condition that in Seller's opinion is grounds for refusing to sell to Buyer on credit, Seller may, without prior notice to Buyer, cancel an order, change the payment terms or insist upon pre-payment of any

order before shipment, or may delay the delivery of the goods until Buyer makes accommodations acceptable to Seller.

## 8. FORCE MAJEURE

Without limitation of Seller's rights under applicable law, Seller shall not be liable to Buyer or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of Seller's obligations if the delay or failure was due to any cause beyond Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond Seller's reasonable control: act of God, explosion, flood, storm, fire or accident, war or threat of war, acts of terrorism or threats of terrorism, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, prohibitions or measures of any kind on the part of any governmental authority, import or export regulations or embargoes, strikes, lockouts or other industrial actions or trade disputes (whether involving employees of Seller or of a third party), difficulties on the part of Seller or any third party in obtaining raw materials, labor, fuel, parts of machinery, power failure or breakdown in machinery, and in any such case the time for performance shall be extended by the period of such force majeure.

## 9. LIMITATION OF DAMAGES

Notwithstanding anything else herein contained, in no event shall the aggregate liability of Seller to Buyer arising out of or relating to any transaction between them exceed the invoice price of the goods subject to the respective transaction. SELLER WILL NOT BE LIABLE TO BUYER IN CONTRACT, TORT OR OTHERWISE FOR ANY ECONOMIC LOSS OF ANY KIND (INCLUDING WITHOUT LIMITATION OF LOSS OF USE, LOSS OF PROFIT, LOSS OF ANTICIPATED PROFIT, LOSS OF DATA, LOSS OF BUSINESS, OVERHEAD RECOVERY, MACHINING COSTS, REVENUE, OR ANTICIPATED SAVINGS), ANY DAMAGE TO BUYER'S REPUTATION OR GOODWILL, ANY PRODUCT RECALL OR BUSINESS INTERRUPTION COSTS, ANY CLAIMS (WHETHER IN TORT, CONTRACT OR OTHERWISE) BY OR ON BEHALF OF ANY THIRD PARTY ARISING OUT OF ANY ALLEGED EXPOSURE TO OR INJURY BY ANY OF THE GOODS SOLD BY SELLER, OR ANY OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE (EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE) ARISING OUT OF OR IN CONNECTION WITH ANY TRANSACTION.

## 10. BUYER'S RESPONSIBILITIES AND INDEMNITIES

- 10.1 Buyer acknowledges and agrees that any advice or recommendation given by Seller or any of its employees or agents as to the storage, handling, application or use of goods which is not confirmed in a Seller Writing shall be followed or acted upon entirely at the Buyer's own risk, and accordingly Seller shall not be liable for any loss, damage or expense incurred by any party (including any third party) arising from following such advice or recommendation.
- 10.2 Buyer understands that there may be hazards associated with the goods, and Buyer assumes all risk, responsibility and liability associated with safely and legally storing, handling, processing, using and/or disposing of any of the goods sold by Seller or any derivative thereof, including complying with the applicable product labels, product documentation, Material Safety Data Sheets, and all federal, state and local regulation. Buyer agrees to use the goods in accordance with applicable law and not in violation of any patent or other proprietary rights of any third party. Buyer will properly test, use, manufacture and market any goods purchased from Seller or materials produced with goods purchased from Seller in accordance with the best practices of experts in the respective field.
- 10.3 Buyer will defend, indemnify and hold harmless Seller, its affiliates, directors, employees, agents, successors and assigns from and against any and all suits, claims, demands, liabilities, losses, damages and/or expenses, including attorneys' fees and all costs of defending any claim, action or threatened action, that Seller may incur as a result of (i) any alleged action or omission by Buyer, its customers or any third party in connection with the ownership, possession, use transport or disposal of any goods sold by Seller or any materials derived from such goods or with which any such goods are combined, intentionally or inadvertently, and/or (ii) any claim by a third party that any goods manufactured or any process applied by Seller or its supplier in accordance with a specification submitted by Buyer infringes any patent, copyright, design, trade mark or other industrial or intellectual property rights of any person.
- 10.4 Buyer shall notify Seller in writing within five (5) days of Buyer's receipt of knowledge of any accident or incident involving Seller's goods that allegedly or actually results in personal injury or damage to property, and Buyer shall fully cooperate with Seller in the investigation and determination of the cause of such accident.

## 11. GOVERNING LAW; FORUM

- 11.1 These Terms, each contract or sale of goods between Seller and Buyer, and any dispute related to these Terms or any such contract or sale shall be governed by and construed in accordance with the laws of the State of Florida without regard for any provisions that would mandate application of the laws of another state.
- 11.2 If a dispute arising out of or relating to these Terms, any other contract or sale of goods between Seller and Buyer, or any alleged breach thereof cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration;
- 11.3 Any controversy or claim arising out of or relating to these Terms, any other contract or sale of goods between Seller and Buyer, or any alleged breach thereof, that cannot be settled by mediation shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, including the Optional Rules for Emergency Measures of Protection, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
- 11.4 Any such mediation or arbitration shall take place in Duval County Florida, unless otherwise agreed to in writing by the Seller.

## 12. MISCELLANEOUS

- 12.1 Seller's failure to strictly enforce any provision of these Terms shall not constitute a waiver of Seller's right to strictly enforce such provision at any time in the future.
- 12.2 If any provision of these Terms is held to be invalid, illegal or unenforceable, the remaining provisions shall not be affected thereby.
- 12.3 Any notice required or permitted to be given by either party to the other under a contract for sale of goods shall be in writing addressed to the other party at its principal place of business or such other address as such party shall have provided pursuant to this provision to the party giving the notice. As used herein, "writing" includes facsimile transmission, electronic mail and comparable means of communication.
- 12.4 Buyer may not assign any of its rights under any contract for the purchase of goods, including by operation of law, without Seller's prior written consent. These Terms shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns. The provisions of Sections 6, 7, 9, 10 and 11 hereof shall survive termination of any contract formed between Seller and Buyer.