

## GENERAL TERMS AND CONDITIONS OF SALES

These GENERAL TERMS AND CONDITIONS OF SALE OF GOODS (the “T&C”) are made by and between KÖKSAN and Buyer, as defined below.

KÖKSAN and Buyer are hereinafter referred to individually as “Party” and collectively as “Parties”.

### 1 DEFINITIONS

In T&C, the following expressions shall, unless otherwise specified or the context otherwise requires, have the meanings set out opposite them respectively:

- “**Affiliates**” means any corporation, firm, company, partnership, or any other entity that directly or indirectly controls or is controlled by or is under common control with KÖKSAN.
- “**Agreement**” means , these T&Cs;
- “**Authorized Signatory**” means any person whose names are mentioned on KÖKSAN’s “Authorized Signatory List” document,
- “**Buyer**” means the person, firm or company or Entity who issues PO to, KÖKSAN;
- “**Force Majeure Event**” means the prevention, hindrance or delay of a Party’s performance of any of its obligations pursuant to Agreement due in whole or in part to reasons that are both beyond the reasonable control of such Party and that could not have been prevented by the exercise of reasonable precautions;
- “**Goods**” means the goods supplied by KÖKSAN to Buyer according to Agreement;
- “**ICC**” means the International Chamber of Commerce;
- “**INCOTERM**” means the international commercial terms (2010) used in the export and import of goods;
- “**KÖKSAN**” means Koksan Pet ve Plastik Ambalaj San.ve Tic. A.S, a company organized and existing under the laws of Republic of Turkey, commercial registration number (14787), with registered office at 4.Org. San. Bol. 83422 P.K. 39 SEHITKAMIL- GAZIANTEP/TURKEY.
- “**Parties**” means KÖKSAN and Buyer;
- “**Party**” means KÖKSAN or Buyer;
- “**PO**” means the purchase order submitted by Buyer to KÖKSAN;
- “**Price**” means the price of sale of Goods mentioned in Sale Contract; and

### 2 REVISION OF TERMS AND CONDITIONS

None of KÖKSAN sales representatives, or any other employee, has authority to amend, rescind or revise any of the provisions of T&C; no variation, revision or waiver of any of the provisions of T&C, shall be binding unless made in writing and duly executed by an Authorized Signatory.

### 3 SCOPE OF APPLICATION

T&C are applicable to all sales made by KÖKSAN to Buyer.

### 4 TRANSACTION AGREEMENT

**4.1** Buyer requests to buy and KÖKSAN accepts to sell Goods in accordance with provisions of Agreement. Executing and returning T&C by Buyer or, in any event, commencement of performance, shall constitute an unconditional acceptance of Agreement by Buyer.

**4.2** Sale of goods (the “Sale”) is regulated by Agreement.

**4.3** Agreement, in addition to any written document executed by Authorized Signatory, constitute the entire agreement between Parties and supersedes all prior agreements, negotiations and understandings between Parties in connection with the subject matter hereof.

**4.4** In case of discrepancy between these T&C and the provisions of Proforma Invoice, the Proforma Invoice prevails.

**4.5** Without justification, liability or any additional cost or expense, KÖKSAN is fully entitled to reject any PO issued by Buyer, within ten (10) days from the delivery of such PO to KÖKSAN.

**4.6** Proposed exceptions to any provision of Proforma Invoice must be stated by Buyer within three (3) days of receipt of said Proforma Invoice and in any case before commencement of performance by KÖKSAN and shall not be effective unless expressly accepted in writing by KÖKSAN according to the provisions of Clause 2.

**4.7** While all reasonable care is taken to arrange secure Electronic Transmission, KÖKSAN, its directors, officers and/or employees cannot guarantee the security of Electronic Transmissions or the reliability, accuracy, timeliness or completeness of said information. Under no circumstance will KÖKSAN, its directors, officers and/or employees be liable to Buyer or any other third party for any losses, damages, costs or other consequences resulting directly or indirectly from Electronic Transmission.

### 5 SHIPMENT AND DELIVERY

**5.1** Delivery shall be effected as agreed in the Proforma Invoice.

**5.2** Buyer submits PO to KÖKSAN and buys Goods from KÖKSAN, at the delivery date(s), Price and currency mentioned in Proforma Invoice. Buyer undertakes to provide KÖKSAN with any required export/import information required to enable KÖKSAN to complete the Sale.

**5.3** Delivery of Goods shall take place according to the provisions of the INCOTERM mentioned in Proforma Invoice.

**5.4** KÖKSAN undertakes to pack Goods for shipping and storage in accordance with international standard practices. It is Buyer’s duty to notify KÖKSAN of any specific or alternative packaging other than Koksan’s current practice; such requirement shall be made by KÖKSAN at Buyer’s sole expense. KÖKSAN is entitled to reject any packaging requirement made by Buyer without any justification.

**5.5** KÖKSAN undertakes to promptly notify Buyer of any detail necessary for the tracking of Goods.

**5.6** Risk of loss and damage passes from KÖKSAN to Buyer according to the provisions of the INCOTERM mentioned in Proforma Invoice.

**5.7** Within a maximum period of one (1) month after receipt of Goods by Buyer and provided that Goods are stored in compliance with highest professional standards, including but not limited to a covered warehouse free of dust, humidity, and not exposed to direct sunlight (the “**Claim Period**”), Buyer shall file a claim to KÖKSAN of any material non-compliance of the

quantity and/or quality of Goods with Specifications or Certificate (the “**Claim**”); Upon notification, and in case of non-agreement, KÖKSAN and Buyer will cooperate in good faith to solve it through usual Customer Satisfaction Management Workflow\* at KÖKSAN and if this will not work then parties appoint an internationally recognized independent quality and compliance inspection entity without any unnecessary delays to issue a final and binding report concerning the compliance of the quantity and quality of Goods (the “**Inspection Report**”).

**5.8** If Buyer does not submit Claim according to the provisions of Clause 5.7, relevant Goods will irrevocably be considered fully compliant with the specifications mentioned in Proforma Invoice.

**5.9** KÖKSAN will consider Claim and/or Inspection Report in the light of actual circumstances. KÖKSAN may, based on its sole discretion, reject the claim or choose to replace Goods.

**5.10** KÖKSAN will not consider Claim for compensation for loss or losses due to natural causes, responsibility of transporter or underwriter.

## **6 PRICES & PAYMENT**

**6.1.** The prices of the Products as well as payment terms are indicated in the Specific Contract(s) or in the Proforma Invoice.

**6.2.** All prices payable by Buyer under Agreement are exclusive of any applicable value added tax, sales tax or other tax, for which Buyer shall be solely liable and shall be made free of exchange and bank charges.

**6.3.** In case the Buyer fails to pay any Purchase Order value on time, the default interest rate shall be applied 0,2 % of the each PO value for each calendar day without any necessity of an advance notice.

## **7 TERMINATION FOR CAUSE**

KÖKSAN may, based on its sole discretion, terminate Agreement forthwith by notice in writing to Buyer, if such Buyer:

**7.1.** commits a material breach of Agreement which in the case of a breach capable of remedy would not have been remedied within thirty (30) days of the receipt by Buyer of a notice from KÖKSAN identifying the breach and requiring its remedy; or

**7.2.** is unable to pay its debts or enters into liquidation whether compulsorily or voluntarily or compounds with or convenes a meeting of its creditors or has a receiver appointed of all or any part of its assets or takes or suffers any similar action in consequence of a debt, or ceases for any reason to carry on business.

**7.3.** without prejudice to KÖKSAN's right to receive interest or any other right, fails to pay Price;

## **8 WARRANTY AND LIMITATION OF LIABILITY**

**8.1** KÖKSAN undertakes that Goods will, upon the transfer of ownership title to Buyer, meet the specifications mentioned in Proforma Invoice; KÖKSAN also warrants that Goods will be conveyed to Buyer with good title, free from any lawful lien or encumbrance.

**8.2** Save and except for the provisions of Clause 8.1, KÖKSAN makes no representations or warranties of any kind, type or nature. KÖKSAN hereby disclaims all representations, conditions and express or implied warranties as to Goods, including but not limited to any implied warranty of merchantability or fitness for a particular purpose, and non-infringement. KÖKSAN will not be liable for any damage, loss, cost or expense for breach of warranty.

**8.3** The overall liability of KÖKSAN under, or with respect to Goods supplied to Buyer pursuant to, Agreement, whether in contract, tort, in strict liability or otherwise, shall not exceed Price of Goods with respect to which damages or liability is claimed.

## **9 INTELLECTUAL PROPERTY**

**9.1** Any recommendations by KÖKSAN are not intended to suggest uses or operations which would infringe or violate any patents or other intellectual property rights, and KÖKSAN assumes no responsibility or liability for any such infringement or violation.

**9.2** Buyer agrees to indemnify, defend and hold KÖKSAN and its Affiliates harmless from and against any alleged patent infringement or violation of other intellectual property rights resulting from KÖKSAN's compliance with designs and/or specifications furnished by Buyer or with specific written instructions given by Buyer for the purpose of directing the manner in which KÖKSAN shall perform Agreement.

## **10 TAXES AND DUTIES**

Unless otherwise provided in Proforma Invoice, any sale, use, value added or other taxes imposed on the transaction covered by Agreement are not included in Price. Such taxes will be solely borne by Buyer, where applicable, or billed separately by KÖKSAN to Buyer.

## **11 ASSIGNMENT**

Parties shall not be entitled to assign, transfer, subcontract or charge Agreement or any of their respective rights or obligations hereunder.

## **12 INDEMNIFICATION**

Buyer agrees to defend, indemnify and hold KÖKSAN and its Affiliates harmless from and against any and all losses, damages, liabilities, costs and/or expenses whatsoever caused in whole or in part by Buyer's acts or omissions, including but not limited to, any loss arising from breach of provisions of Agreement or improper performance by Buyer and for damages and/or injuries of any type which may be incurred by KÖKSAN during the fulfilment of its obligations under Agreement.

## **13 RIGHT OF RECOVERY**

KÖKSAN is entitled to recover, in addition to whatever other remedy or recovery to which it is entitled, its reasonable costs and expenses, including reasonable attorney's fees, incurred in enforcing and/or defending its rights under Agreement.

## **14 FORCE MAJEURE**

Neither Party, nor its employees, suppliers, subcontractors, or agents, shall be liable for failure to strictly perform thereunder due to Force Majeure Event beyond their reasonable control, such as fires, floods, court orders, strikes, acts of governmental authorities, or acts of God, provided that the Party affected by the force majeure gives the other Party timely notification of causes and the effects of the force majeure.

## **15 CONSEQUENTIAL DAMAGE**

In no event will KÖKSAN or its Affiliates be liable in contract, in tort, in strict liability or otherwise, for any special, indirect, incidental, consequential, speculative, punitive or exemplary damages, including, but not limited to, loss of anticipated profits or revenues, loss of use, non-operation or increased expense of operation of equipment, cost of capital, or claims of customers of

buyer for failure or delay in achieving anticipated profits or products. KÖKSAN or its Affiliates shall not be responsible for any, and Buyer assumes all, liability for personal injury and property damage resulting from the handling, possession, processing or use of Goods.

**16 SEVERABILITY**

**16.1** Each of the provisions contained in Agreement shall be construed as independent of every other provision to the effect that if any provision of Agreement or the application of any provision to any person, firm or company or to any circumstance shall be determined to be invalid and unenforceable, such determination shall not affect any other provision in Agreement or the application of such provision to any person, firm, company or circumstance all of which other provisions shall remain in full force and effect.

**16.2** If one or more provisions of this Agreement be or become invalid, illegal or unenforceable in any respect under the law of any relevant jurisdiction, such provision shall not affect the validity, legality and/or enforceability of any other provisions. The Parties shall negotiate in good faith and in reasonable manner to replace such provision by a valid, legal and enforceable provision of a mutually acceptable and satisfactory alternative, which approaches their original intentions as closely as possible. Should this Agreement be incomplete, both Parties shall supplement it in good faith with provisions on the basis of the existing provisions.

**17 GOVERNING LAW AND DISPUTE RESOLUTION**

**17.1.** This Agreement shall be governed by and construed in accordance with Turkish law.

**17.2.** All disputes related, arising from or in connection with this Agreement shall be finally settled by the International Chamber of Commerce (“ICC”) Court of Arbitration in accordance with the Rules of the Arbitration of ICC as in effect as of the date of commencement of the arbitration proceedings, by one (1) arbitrator appointed in accordance with the said rules. The Arbitration shall be conducted in Istanbul. The language of the arbitration shall be Turkish. The arbitral tribunal shall apply exclusively the substantive law of Turkey excluding its provisions on conflicts of laws. The arbitral tribunal shall resolve on the costs and fees incurred in its arbitral award. The award of the arbitral tribunal shall be sole and exclusive remedy between the parties regarding any claims and counter claims presented to the arbitral tribunal. The arbitral tribunal shall not have the authority to modify this Agreement.

**18 NOTICES**

**18.1** Any notice or other communication to be given by one Party to other Party, under, or in connection with the matters contemplated by Agreement shall be in writing and shall be given by letter delivered by hand or sent by first class prepaid recorded delivery or registered post or by facsimile, provided that any notice sent by facsimile must be followed within fourteen (14) days by confirmatory copy delivered by hand or post. Any notice served by facsimile or delivered by hand will be deemed to have been received on the next working day after sending or delivery, and any notice served by post will be deemed to have been received seven (7) working days after posting of the same.

**19 CONFIDENTIALITY**

Agreement is agreed to be the proprietary information of KÖKSAN and is strictly confidential. Except as otherwise required by law, Buyer shall not disclose any provision of Agreement (inclusive but not limited to Price being paid) to any third party without the express prior written consent of KÖKSAN.

**20 GENERAL**

**20.1** No failure of KÖKSAN to exercise, and no delay on its part in exercising, any power given to it hereunder or failure to insist, or delay in insisting upon, strict compliance by Buyer or KÖKSAN with any obligation or condition of Agreement and no custom or practice of Parties at variance with the terms of Agreement shall constitute a waiver of any of KÖKSAN's rights under Agreement.

**20.2** No waiver by KÖKSAN of any particular default by Buyer shall affect or impair KÖKSAN's rights in respect of any subsequent default of any kind by Buyer, nor shall any delay or omission of KÖKSAN to exercise any rights arising from a default affect or impair KÖKSAN's rights in respect of the said default or any other default of Buyer hereunder. Subsequent acceptance by KÖKSAN of any payments by Buyer shall not be deemed a waiver of any preceding breach by Buyer of any of the terms, undertakings or conditions of Agreement.

**20.3** Any right conferred upon KÖKSAN by Agreement and these T&C shall be in addition to and without prejudice to all other rights and remedies available to it.

**20.4** The rights and remedies of KÖKSAN under Agreement and these T&C are cumulative and not exclusive of each other or of any other right or remedy.

**20.5** Parties may decide to sign in one or more counterparts the Agreement and these T&C, each of which shall be deemed an original. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic mail via portable document format (.pdf) shall be as effective as delivery of an original and manually executed counterpart hereof.

**IN WITNESS WHEREOF**, Parties have caused their duly authorized representatives to execute Agreement as of Commencement Date,

**Signed by:**  
Signature .....,  
Name XXXXXXXXXXXXXXXX  
Position XXXXXXXXXXXXXXXX  
for and on behalf of

**Signed by:**  
Signature .....,  
Name  
Position XXXXXXXX  
for and on behalf of