



MASTER SUPPLY AGREEMENT

THIS SUPPLY AGREEMENT (this “Agreement”), dated as of _____ (the “Effective Date”), is entered into by and between KLEEN CONCEPTS, LLC, an Arizona limited liability company having an address at 8388 E. Hartford Drive, Suite 105, Scottsdale, AZ 85255 (“Seller”), and

 (“Buyer”), a _____
 having _____ an _____ address at _____

 (together with Seller, the “Parties”, and each, a “Party”).

WHEREAS, Seller is in the business of manufacturing, packaging and selling certain products;

WHEREAS, Buyer wishes to purchase certain Goods (as defined below) from Seller, and Seller desires to manufacture and/or package and sell the Goods to Buyer, in accordance with the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized terms used but not otherwise defined in this Agreement have the meanings set out or referred to in this Section 1.

“Affiliate” of a Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such Person.

“Basic Purchase Order Terms” means, collectively, any one or more of the following terms specified by Buyer in a Purchase Order pursuant to Section 3.1: (a) a list of the Goods to be purchased; (b) the quantity of each of the Goods ordered; (c) the requested delivery date; (d) the unit Price for each of the Goods to be purchased; (e) the billing address; and (f) the Delivery Location. For the avoidance of doubt, the term “Basic Purchase Order Terms” does not include any general terms or conditions of any Purchase Order.

“Bill of Materials” means a detailed list of the raw materials, sub-assemblies, intermediate assemblies, sub-components, parts and the quantities of each needed to manufacture Goods.

“Commencement of Work” means any steps taken towards the making of the goods described in Buyer’s Purchase Order, including the purchase by Seller of any goods or supplies to be used for the production of such goods.

“Buyer Supplied Materials” means any components (including but not limited to raw materials, ingredients and packaging) supplied by Buyer to Seller for use in producing the Goods.

“Defective” or “Nonconforming Goods” means not conforming to the Product Warranty under Section 8.1 or any Goods received by Buyer from Seller pursuant to a Purchase Order that do not conform to the agreed upon specifications in the corresponding Bill of Materials for the applicable Purchase Order. Where the context requires, Nonconforming Goods are deemed to be Goods for purposes of this Agreement.

“Delivery Location” means the street address for delivery of the Goods specified in the applicable Purchase Order.

“Freight on Board, Arizona” (or “FOB Arizona”) means the point at which freight becomes responsibility of Buyer, which is upon Seller’s tender of goods to carrier at Seller’s warehouse in Scottsdale, Arizona.

“First Article Sample” means the representative sample of each of the Goods described in Bill of Materials. Buyer must approve the First Article Sample in writing (including by e-mail) before production is commenced.

“Goods” means the goods produced by Seller for Buyer pursuant to this Agreement, as identified in Bill of Materials.

“Governmental Authority” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental

regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

Person” means any individual, partnership, corporation, trust, limited liability entity, unincorporated organization, association, Governmental Authority or any other entity.

“Personnel” of a Party means any agents, employees, contractors or subcontractors engaged or appointed by such Party.

“Purchase Order” means Buyer’s purchase order issued to Seller hereunder, including all Basic Purchase Order Terms and conditions attached to, or incorporated into, such purchase order.

“Quote” means a written statement from Seller containing specifications on the goods and/or services to be performed/manufactured, and includes (but is not limited to) their prices, quantities and payment terms.

“Representatives” means a Party’s Affiliates and each of their respective Personnel, officers, directors, partners, shareholders, attorneys, third-party advisors, successors and permitted assigns.

“Specifications” means the specifications used to describe Goods in Quote and Bill of Materials.

“Trademarks” means all rights in and to US and foreign trademarks, service marks, trade dress, trade names, brand names, logos, corporate names and domain names and other similar designations of source, sponsorship, association or origin, together with the goodwill symbolized by any of the foregoing, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection in any part of the world.

“Vendor Directed Materials” means any components (including but not limited to raw materials, ingredients and packaging) directed by Buyer to be obtained by Seller from a specific Vendor(s) for use in producing the Goods.

2. Purchase and Sale of Goods.

2.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, during the Term, Buyer

shall purchase from Seller, and Seller shall manufacture and sell to Buyer, Buyer’s requirements of the Goods. Each Purchase Order shall contain: (a) a description of the Goods to be manufactured and sold hereunder; (b) the purchase price for each of the Goods; and (c) the quantity of the Goods. The Parties shall, from time to time, amend the Purchase Order to reflect any agreed revisions to any of the terms described in the foregoing clauses (a) through (c); provided that no such revisions will modify this Agreement or be binding on the Parties unless such revisions have been fully approved in a signed writing by authorized Representatives of both Parties.

2.2 Terms of Agreement Prevail Over Buyer’s Purchase Order. The Parties intend for the express terms and conditions contained in this Agreement (including any attached Schedules and Exhibits hereto, as well as Seller’s Quote and Bill of Materials) and the Basic Purchase Order Terms contained in the applicable Purchase Order to exclusively govern and control each of the Parties’ respective rights and obligations regarding the subject matter of this Agreement, and this Agreement is expressly limited to such terms and conditions. Without limiting the foregoing, any additional, contrary or different terms contained in any Purchase Order or other request, writing or communication by Buyer pertaining to this Agreement and/or the sale of Goods by Seller, and any attempt to modify, supersede, supplement or otherwise alter this Agreement, will not modify this Agreement or be binding on the Parties unless such terms have been fully and expressly approved in a writing and is signed by authorized Representatives of both Parties.

2.3 Right to Manufacture and Sell Competitive Goods. This Agreement does not limit Seller’s right to manufacture or sell, or preclude Seller from manufacturing or selling, to any Person, or entering into any agreement with any other Person related to the manufacture or sale of, the Goods and other goods or products that are similar to or competitive with the Goods.

3. Ordering Procedure.

3.1 Quotes, Purchase Orders and Bill of Materials. Buyer shall request a Quote from Seller. If Buyer accepts Quote, it shall issue to Seller a Purchase Order

(containing applicable Basic Purchase Order Terms that are consistent with the terms of this Agreement), in written form via facsimile, e-mail or US mail. Seller will create a Bill of Materials for Buyer's written approval. By issuing a Purchase Order to Seller, Buyer makes an offer to purchase Goods pursuant to the terms and conditions of this Agreement (including any attached Schedules and Exhibits hereto, as well as Seller's Quote, Bill of Materials and Quality Agreement) and the Basic Purchase Order Terms contained in the applicable Purchase Order, and on no other terms. For the avoidance of doubt, any variations made to the terms and conditions of this Agreement and Quote by Buyer in any Purchase Order, or other communication not in conformance with Section 2 are void and have no effect. Buyer shall be obligated to purchase from Seller quantities of Goods specified in the Purchase Order. If mutually agreed upon in writing, the Parties may, from time to time, revise the Bill of Materials only to reflect any changes in specifications of Goods without referencing this section.

3.2 Acceptance and Rejection of Purchase Orders. Seller accepts a Purchase Order by confirming the order in writing or by delivering the applicable Goods to Buyer, whichever occurs first. Seller may, without liability or penalty, and without constituting a waiver of any of Seller's rights or remedies under this Agreement, (a) cancel any accepted Purchase Order if Seller determines that Buyer is in violation of its payment obligations or has otherwise breached this Agreement, or (b) reject any Purchase Order, in each case, by providing Seller with written notice thereof.

4. Shipment, Delivery, Acceptance and Inspection.

4.1 Shipment & Delivery. Unless otherwise expressly agreed by the Parties in writing, all shipments are FOB Arizona. Each shipment will constitute a separate sale and Buyer shall pay for the Goods shipped, in accordance with the payment terms specified in Seller's Quote, whether such shipment is in whole or partial fulfillment of a Purchase Order.

4.2 Transfer of Title and Risk of Loss. Title and risk of loss to Goods shipped under any Purchase Order passes to Buyer upon Seller's tender of the Goods to the carrier at Seller's warehouse in Scottsdale, Arizona.

4.3 Inspection. Buyer shall inspect Goods received under this Agreement upon receipt of such Goods and either accept or, only if such Goods are

Nonconforming Goods, reject such Goods. Buyer will be deemed to have accepted Goods unless it provides Seller with written Notice of any Nonconforming Goods within fifteen (15) days following its receipt of such Goods, stating with specificity all defects and nonconformities, and furnishing such other written evidence or other documentation as may be reasonably required by Seller (including the subject Goods, or a representative sample thereof, which Buyer contends are Nonconforming Goods). All defects and nonconformities that are not so specified will be deemed waived by Buyer, such Goods shall be deemed to have been accepted by Buyer, and no attempted revocation of acceptance will be effective. Buyer shall ship, at Buyer's expense and risk of loss, all Nonconforming Goods to Seller's facility located in Scottsdale, Arizona or to such other location as Seller may instruct Buyer in writing. Once Buyer timely notifies and ships any Nonconforming Goods, Seller shall determine, in its reasonable discretion, whether the Goods are Nonconforming Goods. If Seller determines that such Goods do not meet the standard for Nonconforming, Seller shall notify Buyer and afford Buyer an opportunity to dispute Seller's findings with fact-based evidence, which shall be reasonably considered by the Seller. If Buyer and Seller cannot come to an agreement, they shall submit such samples to a mutually agreed upon third party, who shall make their own determination as to whether such Goods do not materially conform to the Product specifications. If Goods are ultimately deemed Nonconforming, Seller shall use the remedies detailed in Section 8.3. THE REMEDIES SET FORTH IN SECTION 8.3 ARE BUYER'S EXCLUSIVE REMEDY FOR THE DELIVERY OF NONCONFORMING GOODS, WITH RESPECT TO ANY SUCH GOODS FOR WHICH BUYER HAS ACCEPTED DELIVERY UNDER THIS SECTION 4.3. Except as provided under this Section 4.3 and Section 8.3, Buyer has no right to return Goods shipped to Buyer pursuant to this Agreement.

5. Price and Payment.

5.1 Price and Payment Terms. Buyer shall purchase the Goods from Seller according to prices and payment terms set forth in Seller's Quote.

5.2 Shipping Charges, Insurance and Taxes. Buyer shall pay for, and shall hold Seller harmless from, all shipping charges and insurance costs. In addition, all Prices are exclusive of, and Buyer is solely responsible

for, and shall pay, and shall hold Seller harmless from, all Taxes, with respect to, or measured by, the manufacture, sale, shipment, use or Price of the Goods (including interest and penalties thereon).

5.3 Warehousing Charges. Buyer-owned product that remains in Seller's storage facility for more than thirty (30) days may be sent off-site, at Seller's option and Buyer's expense. Seller will provide Buyer with name and address of off-site facility when applicable.

5.4 Invoice Disputes. Buyer shall notify Seller in writing of any dispute with any invoice (along with substantiating documentation and a reasonably detailed description of the dispute) within fifteen (15) days from the date of such invoice. Buyer will be deemed to have accepted all invoices for which Seller does not receive timely notification of dispute, and shall pay all undisputed amounts due under such invoices within the period set forth in Seller's Quote. The Parties shall seek to resolve any such disputes expeditiously and in good faith in accordance with the dispute resolution provisions set forth in Section 12.15. Notwithstanding anything to the contrary, Buyer shall continue performing its obligations under this Agreement during any such dispute, including Buyer's obligation to pay all due and undisputed invoice amounts in accordance with the terms of this Agreement.

5.5 Late Payments. Except for invoiced payments that Buyer has successfully disputed, Buyer shall pay interest on all late payments (whether during the Term or after the expiration or earlier termination of the Term), calculated daily and compounded monthly, at the lesser of the rate of 15% per month or the highest rate permissible under applicable Law. Buyer shall also reimburse Seller for all costs incurred by Seller in collecting any late payments, including, but not limited to attorneys' fees and court costs. In addition to all other remedies available under this Agreement or at Law (which Seller does not waive by the exercise of any rights under this Agreement), if Buyer fails to pay any amounts when due under this Agreement, Seller may: (a) suspend the delivery of any Goods; (b) reject Buyer's Purchase Orders or cancel accepted Purchase Orders pursuant to the terms of Section 3.2; (c) sell off Goods in any channel and at any price necessary to mitigate damages; and/or (d) terminate this Agreement pursuant to the terms of Section 6.3.

5.6 No Set-off Right. Buyer shall not, and acknowledges that it will have no right, under this Agreement, any Purchase Order, any other agreement,

document or Law to, withhold, offset, recoup or debit any amounts owed (or to become due and owing) to Seller or any of its Affiliates, whether under this Agreement or otherwise, against any other amount owed (or to become due and owing) to it by Seller or Seller's Affiliates, whether relating to Seller's or its Affiliates' breach or non-performance of this Agreement, any Purchase Order, any other agreement between (a) Buyer or any of its Affiliates and (b) Seller or any of its Affiliates, or otherwise.

6. Term; Termination.

6.1 Initial Term. The term of this Agreement commences on the Effective Date and continues for a period of one (1) year from the date of the last delivery, unless it is earlier terminated pursuant to the terms of this Agreement or applicable Law (the "Initial Term").

6.2 Renewal Term. Upon expiration of the Initial Term, the term of this Agreement will automatically renew for additional successive one (1) year terms unless either Party provides written Notice of non-renewal at least sixty (60) days prior to the end of the then-current term (each, a "Renewal Term" and together with the Initial Term, the "Term"), unless any Renewal Term is earlier terminated pursuant to the terms of this Agreement or applicable Law.

6.3 Termination for Cause. Seller may terminate this Agreement by providing written Notice to Buyer if Buyer fails to pay any amount when due under this Agreement ("Payment Failure"). Either party may terminate this Agreement immediately if (a) the other party breaches a material obligation of this Agreement that by its nature is incurable; (b) the other party commits a curable material breach of this Agreement, which has not been remedied within thirty (30) days of a written request to remedy the same; (c) a receiver is appointed for the other party or its property; (d) the other party makes an assignment for benefit of its creditors; (e) proceedings are commenced by or for the other party under any bankruptcy, insolvency, or debtor's relief law, or (f) the other party liquidates or dissolves its business or attempts to do so. Seller may also terminate this Agreement without cause with 60 days prior written notice to Buyer.

6.4 Effect of Expiration or Termination. Upon the expiration or earlier termination of this Agreement, all amounts owed by Buyer to Seller under this Agreement of any kind shall become immediately due and payable to Seller, without further notice to Buyer. The

expiration or termination of this Agreement, for any reason, shall not release either Party from any obligation or liability to the other Party, including any payment and delivery obligation, that: (a) has already accrued hereunder; (b) comes into effect due to the expiration or termination of the Agreement; or (c) otherwise survives the expiration or termination of this Agreement. With respect to any Goods that are still in transit upon termination of this Agreement, Seller may require, in its sole discretion, that all sales and deliveries of such Goods be made on either a cash-only or certified-check basis.

7. Certain Obligations of Buyer.

7.1 Certain Prohibited Acts. Notwithstanding anything to the contrary in this Agreement, neither Buyer nor any Buyer Personnel shall: (a) make any representations, warranties, guarantees, indemnities, similar claims or other commitments (i) actually, apparently or ostensibly on behalf of Seller, or (ii) to any customer or other Person with respect to the Goods, which are additional to or inconsistent with any then-existing representations, warranties, guarantees, indemnities, similar claims or other commitments in this Agreement, Seller's Quote, Bill of Materials, Quality Agreement or any written documentation provided by Seller to Buyer; and (b) engage in any unfair, competitive, misleading or deceptive practices respecting Seller, Seller's Trademarks or the Goods, including any product disparagement.

7.2 Compliance with Laws. Buyer shall at all times comply with all Laws applicable to this Agreement, Buyer's performance of its obligations hereunder and Buyer's use or sale of the Goods. Without limiting the generality of the foregoing, Buyer shall (a) at its own expense, maintain all certifications, credentials, licenses and permits necessary to conduct its business relating to the purchase, use or resale of the Goods and (b) not engage in any activity or transaction involving the Goods, by way of resale, lease, shipment, use or otherwise, that violates any Law.

7.3 Buyer Supplied Materials and Vendor Directed Materials. Seller may rely solely on the Certificate of Analysis (COA) supplied with Buyer Supplied/Vendor Directed Materials. Buyer shall be liable for any defects resulting from inaccurate COA's.

8. Product Warranty.

8.1 Limited Product Warranty. Subject to the provisions of Sections 8.2 through 8.4, Seller warrants to Buyer (the "Product Warranty") that (a) each Good will materially conform to the Specifications in Seller's Bill of Materials, as represented by the approved "First Article Sample", except for Goods produced with Buyer Supplied Materials and Vendor Directed Materials (Seller provides no Warranty for Use or Suitability for defects related to such materials); (b) Seller shall properly pack, mark, and ship Goods as instructed by Buyer; and (c) Buyer will receive good and valid title to all Goods, free and clear of all encumbrances and liens of any kind.

8.2 Product Warranty Limitations. The Product Warranty does not apply to: (a) any Good that has been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions or use contrary to any instructions issued by Seller; (b) any Good that has been reconstructed, repaired or altered by Persons other than Seller or its authorized Representative; (c) any Good that has been used with any products manufactured by a third party ("Third-Party Products"), or a product that has not been previously approved in writing by Seller; (d) any Third-Party Product included any Good; or (e) any Buyer Supplied Materials or any Vendor Directed Materials; or (f) any marketing or advertising claims of any Good made by Buyer.

8.3 Buyer's Exclusive Remedy for Defective Goods. Notwithstanding any other provision of this Agreement, this Section 8.3 contains Buyer's exclusive remedy for Defective Goods. During the Warranty Period, with respect to any allegedly Defective Goods, Buyer shall: (a) notify Seller, in writing, of any alleged claim or defect within 5 days from the date Buyer discovers, or upon reasonable inspection should have discovered, such alleged claim or defect (but in any event before the expiration of the applicable Warranty Period); and (b) ship, at its expense and risk of loss, such allegedly Defective Goods to Seller's facility located in Scottsdale, Arizona for inspection and testing by Seller. If Seller's inspection and testing reveals, to Seller's reasonable satisfaction, that such Goods are Defective and any such defect has not been caused or contributed to by any of the factors described under Section 8.2, then Seller shall reimburse Buyer for return shipping costs and: (a) repair or replace such Defective Goods; and (b) ship to Buyer, at Seller's

expense, the repaired or replaced Goods to the Delivery Location or, only at Seller's option, Seller may refund to Buyer such amount paid by Buyer to Seller for such Nonconforming Goods returned by Buyer to Seller. Buyer has no right to return for repair, replacement, credit or refund any Good except as set forth in this Section 8.3 (or if otherwise applicable, Section 4.3). In no event shall Buyer reconstruct, repair, alter or replace any Good, in whole or in part, either itself or by or through any third party. THIS SECTION 8.3 SETS FORTH BUYER'S SOLE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED PRODUCT WARRANTY SET FORTH IN SECTION 8.1.

8.4 DISCLAIMER OF OTHER REPRESENTATIONS AND WARRANTIES; NON-RELIANCE. EXCEPT FOR THE PRODUCT WARRANTY SET FORTH IN SECTION 8.1, (A) NEITHER SELLER NOR ANY PERSON ON SELLER'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, EITHER ORAL OR WRITTEN, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND (B) BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8.1 OF THIS AGREEMENT.

9. Indemnification. Subject to the terms and conditions of this Agreement, Buyer (as "Indemnifying Party") shall indemnify, defend and hold harmless Seller and its Representatives, Affiliates, and its and their respective successors and permitted assigns (collectively, "Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Indemnified Party (collectively, "Losses"), relating to any third-party claim or any direct claim against Indemnifying Party alleging: (a) a

breach or non-fulfillment of any representation, warranty or covenant under this Agreement by Indemnifying Party or Indemnifying Party's Personnel; (b) any negligent or more culpable act or omission of Indemnifying Party or its Personnel (including any recklessness or willful misconduct) in connection with the performance of this Agreement; (c) any bodily injury, death of any Person or damage to real or tangible personal property caused by the willful or negligent acts or omissions of Indemnifying Party or its Personnel; or (d) any failure by Indemnifying Party or its Personnel to comply with any applicable Laws. Notwithstanding anything to the contrary in this Agreement, an Indemnifying Party is not obligated to indemnify or defend (if applicable) an Indemnified Party against any claim if such claim or corresponding Losses arise out of or result from the Indemnified Party's or its Personnel's gross negligence or more culpable act or omission (including recklessness or willful misconduct). Any breaching party shall be responsible for the attorneys' fees of the non-breaching party in any action brought by the non-breaching party to enforce the terms and provisions of this Agreement.

10. Limitation of Liability.

10.1 NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES. IN NO EVENT SHALL SELLER OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (a) WHETHER SUCH DAMAGES WERE FORESEEABLE, (b) WHETHER OR NOT BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (c) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

10.2 MAXIMUM LIABILITY FOR DAMAGES. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE PROFIT MARGIN FROM THE AMOUNTS PAID TO SELLER PURSUANT TO

THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

10.3 ASSUMPTION OF RISK. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY GOODS IN THE PRACTICE OF ANY PROCESS, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY SELLER, BY WAY OF TECHNICAL ADVICE OR OTHERWISE, RELATED TO THE USE OF THE GOODS.

11. Intellectual Property Rights. Nothing herein shall give either Party any interest in the Intellectual Property Rights of the other Party. Without limitation to Section 10, neither Seller nor any of its Representatives shall be liable for any Losses incurred by Buyer arising out of any claim of a third party (including, without limitation, any claim alleging that any of the Goods infringe any Intellectual Property Right of a third party) if such claim arises out of or results from artwork or labelling requested by Buyer.

12. Miscellaneous

12.1 Entire Agreement. This Agreement and any related exhibits and schedules, including and together with the Seller's Quote, Bill of Materials, Quality Agreement and the Basic Purchase Order Terms contained in the applicable Purchase Order, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

12.2 Non-Solicitation and Non-Circumvention. During the Term and for a period of two (2) years following the termination of this Agreement, Buyer shall not, directly or indirectly, for itself or on behalf of any other Person: (a) solicit for employment or otherwise induce, influence or encourage to terminate employment with Seller, or employ or engage as an independent contractor, any current or former employee of Seller; or (b) solicit business from or induce, influence or encourage, any client, customer, supplier or other similar third party of Seller to alter, terminate

or breach its contractual or other business relationship with Seller; or (c) circumvent Seller or any of its Representative by communicating or conducting business with any of Seller's suppliers, vendors, distributors, dealers, sales agents, brokers, licensors or licensees. Each Party acknowledges and agrees that (a) a breach or threatened breach by such Party of any of its obligations under this Section would give rise to irreparable harm to the other Party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such Party of any such obligations, the other Party shall, in addition to any and all other rights and remedies that may be available to such Party at law, at equity or otherwise in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each Party agrees that such Party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Section 12.2.

12.3 Relationship of the Parties. The relationship between Seller and Buyer is solely that of vendor and vendee, and they are independent contracting parties. Nothing in this Agreement creates any agency, joint venture, partnership or other form of joint enterprise, employment or fiduciary relationship between the Parties. Neither Party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement or undertaking with any third party.

12.4 Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a "Notice") must be in writing and addressed to the other Party at its address set forth in the first paragraph of this Agreement (or to such other address that the receiving Party may designate from time to time in accordance with this section). All Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid) to the address set forth in the preamble of this Agreement.

12.5 Interpretation. Unless the context otherwise requires, references in this Agreement: (a) to sections, exhibits, schedules, and attachments mean the sections of, and exhibits, schedules, attachments and appendices attached to, this Agreement; (b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof. The Parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

12.6 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

12.7 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

12.8 Amendment; Modification; Waiver. No amendment to this Agreement is effective unless it is in writing and signed by each Party in accordance with Section 2. No waiver by Seller under this Agreement is effective unless it is in writing and signed by Seller. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion. Any failure or delay in exercising any right, remedy, power or privilege or in enforcing any condition under this Agreement shall not constitute a waiver or estoppel of any right, remedy, power, privilege or condition arising from this Agreement.

12.9 Cumulative Remedies. Except as otherwise set forth in this Agreement, all rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties or otherwise.

12.10 Assignment. No assignment or delegation relieves the assigning or delegating Party of any of its obligations under this Agreement. This Agreement is binding on and inures to the benefit of the Parties and their respective permitted successors and permitted assigns.

12.11 No Third-Party Beneficiaries. Except with respect to Indemnified Parties under Section 9, this Agreement benefits solely the parties to this Agreement and their respective permitted successors and permitted assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

12.12 Further Assurances. Upon Seller's reasonable request, Buyer shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement.

12.13 Force Majeure. Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, if such failure or delay is caused by or results from acts beyond Seller's control, including: (a) acts of nature; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) requirements of Law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any Governmental Authority (whether or not having the effect of Law); (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) shortages of or delays in receiving raw materials; or (j) shortage of adequate power or transportation facilities (each, a "Force Majeure Event").

12.14 Governing Law. This Agreement, including all exhibits, schedules, attachments and appendices attached hereto and thereto, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the Laws of the State of Arizona, United States of America, without regard to the conflict of laws provisions thereof.

12.15 Dispute Resolution. In the event of any dispute, controversy, or claim arising out of or relating

to this Agreement, or the breach, termination or invalidity hereof (each, a "Dispute"), the parties hereto shall first attempt in good faith to resolve any Dispute by negotiation and consultation between themselves, including, without limitation, not fewer than three (3) negotiation sessions. If the parties hereto cannot resolve any Dispute after such negotiation sessions, either party may submit the Dispute to a mutually agreed mediation service for mediation administered in Scottsdale, Arizona by providing to the mediation service a joint, written request for mediation, setting forth the subject of the dispute and the relief requested. The parties covenant that they will use commercially reasonable efforts in participating in the mediation. If the parties hereto cannot resolve the dispute after sixty (60) days from the commencement of mediation, then either party may submit the Dispute to arbitration administered in Scottsdale, Arizona by the American Arbitration Association under its Commercial Arbitration Rules. The award rendered by the arbitrator shall be final and binding on the parties and may be entered and enforced in any court having jurisdiction. Any breaching party shall be responsible for the attorneys' fees of the non-breaching party in any arbitration proceeding with respect to this Agreement.

12.16 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

End. (Signature page follows on page 10)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above. The individuals signing this Agreement represent by their signatures that they are authorized to sign on behalf of and to bind their respective companies to this Agreement.

Signed: _____

Name: _____

Title: _____

KLEEN CONCEPTS, LLC

Signed: _____

Name: _____

Title: _____