



**General Terms and Conditions of
HINDERER + MÜHLICH USA L.P.
January, 2, 2007**

1.) Definitions

“*Seller*” herein refers to h+m USA L. P.;

“*Buyer*” refers to the company or other person named as such on the Quotation/Invoice; “*Invoice*” refers to these Terms of Sale together with the material on the face of this invoice, and refers the “*Buyer*” to obtain copies or visit our website www.hmusadies.com for detailed explanation of the Terms of Sale.

“*Goods*” herein refers to the items of tangible personal property described in the invoice.

The terms set forth herein by h+m USA, supersede any contrary provision presented by the Seller or supplier identified in this Acknowledgment, or any other person or entity in any written form or otherwise and may not be changed in any manner other than a writing signed by an authorized representative of Seller. To the extent that the Purchase/Sales order constitutes an acceptance by Seller of an offer by Buyer, the acceptance is expressly conditioned on Buyer’s assent to terms and conditions herein which are additional or different to those presented by Seller. To the extent that any portion of the Sales Order constitutes an offer, acceptance is expressly limited to the terms of the offer.

2. Delivery

The Goods will be shipped, absent such direction, to the address of Buyer as shown on the Buyer’s Purchase Order and/or h+m USA Invoice. Unless otherwise stated, the delivery terms shall be as follows:

(i) “delivery costs shall be incurred by the Buyer and agreed items shall be shipped to the Buyer’s facility unless stated otherwise by the Buyer.....”

Buyer shall specify to Seller, in writing, in ample time prior to shipment, the carrier Buyer desires to carry the Goods, failing which, Seller may select any recognized common carrier without responsibility or liability to Buyer for such selection. Seller shall have no obligation to arrange for any valuation of the Goods over and above the valuation provided in the carrier’s tariffs or other rate schedules at the lowest rates of carriage. Buyer acknowledges that the risk of loss shall pass to Buyer upon the common carrier taking possession of the Goods and that Buyer shall have the sole responsibility to insure the Goods against loss.

3. Delivery Date(s)

If the Invoice is marked to show that the Goods are of Seller’s manufacture, in whole or in part, delivery date(s) are determined from the date the sales order becomes a contract and are estimates of approximate dates of delivery, not a guarantee of a particular day of delivery. In such cases, Seller’s obligation with respect to delivery is limited to placing an order for the Goods and using all reasonable means to obtain the goods in time to meet the approximate delivery date(s) specified.



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4. Terms of Payment

Unless otherwise stated, the payment terms shall be that Buyer shall:

- pay the amount of the down payment, if any, stated on the face of the quotation, in cash, at or before the time when the Purchase/Sales order becomes a contract;
- pay such other amounts, at such other times, as the Quotation requires prior to shipment of the Goods; and
- provided that Buyer meets Seller's credit standards at the time of delivery of any part of the Goods, Buyer shall pay the balance owing (or the entire sales price, if there is no down payment) net 30 days after shipment, or according to other terms agreed upon between buyer and seller..

5. Limited Warranty

(a) The Goods covered hereby constitute "hot stamping and embossing dies, special tools, make-ready accessories, and silicone products. Buyer acknowledges and agrees that:

(i) Such Goods are manufactured in relation to established product specifications, with regard to quality, tolerances, heat reduction factor(s), etc. and provided that such Goods are manufactured in conformity to these specifications, such Goods shall be deemed to be "conforming goods" as defined under the "Code". The manufacturing standards upheld by Seller are not intended to project exact performance standards to be achieved by Buyer with respect to such items and any implied warranty with respect thereto is hereby expressly disclaimed;

(ii) Buyer acknowledges and agrees that Seller shall have no liability or responsibility to the Buyer regarding life expectancy of its products or be liable for any conditions beyond the sellers control which can diminish life expectancy of Sellers products.

(iii) Seller has made no evaluation or determination as to the suitability of the Goods for any of Buyer's purposes. Buyer has been, and is solely responsible for, the uses to which Buyer will put the Goods and for any determination of the suitability or fitness of the Goods for any such purposes;

(iv) Buyer acknowledges and agrees that Seller shall have no liability or responsibility whatsoever to Buyer, Buyer's customers, secondary processors, the customers of such secondary processors, or any other person in the event that the Goods are utilized (x) in an application other than that which was intended by Buyer, or are prepared or utilized in a manner inconsistent with such standard procedures and recommendations.



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(b) Provided that the Goods are properly stored and are properly utilized in the application for which such Goods were intended, Seller warrants for a period of 6 months following the shipment of the Goods that the Goods will be free from defects in material and workmanship (5). Should any of the Goods fail to conform with such limited warranty, at Seller's election, Seller's liability shall be limited solely to either repair or replacement of such defective Goods. OTHER THAN AS SET FORTH HEREIN, SELLER DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS THE EXISTENCE OF, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER WARRANTY OF ANY KIND OR NATURE WHATSOEVER WITH RESPECT TO SUCH GOODS.

(c) Notwithstanding the foregoing, Buyer acknowledges and agrees that upon delivery, but in all events within seven (7) days of delivery, Buyer shall promptly inspect all Goods and promptly notify Seller with specificity in writing of: (i) the existence of any patent defects or non-conforming goods; or (ii) the failure of the shipment of the Goods to conform to the Order Acknowledgment, including, but not limited to the timeliness of the delivery of such Goods. Buyer acknowledges and agrees that if Buyer fails to give the notice required by the immediately preceding sentence, it shall be conclusively presumed that, other than with respect to latent defects which could not practicably be ascertained by physical inspection, the Goods as delivered were (a) free and clear of any patent defects, (b) "conforming goods" as such term is defined in the Code, (c) timely delivered, and (d) otherwise conformity with the terms of the Sales/Purchase order.

(d) Buyer acknowledges and agrees that no salesman, officer, agent or other representative of Seller, nor is any officer, agent or other representative of the manufacturer, authorized to make any representation contrary to the foregoing and that any attempt to do so shall not be binding upon Seller.

6. Limitation of liability

Notwithstanding any provision herein to the contrary, and other than as otherwise expressly set forth herein, Buyer acknowledges and agrees that Seller shall have no liability to Buyer in connection with the Goods in excess of the total amount of consideration paid to Seller hereunder. Under no circumstances shall Seller have any liability to Buyer, or to any of Buyer's customers, for any direct, special, consequential or incidental damages, or lost profits in connection with the Goods sold hereunder. No action shall be brought by Buyer for any breach of any contract arising or resulting from the Goods sold hereunder more than one year after the cause of action therefor accrues.

7. Force Majeure

Seller shall not be liable for delays or failures in performance resulting directly or indirectly from delays in manufacture, shipping, delivery, weather or other Acts of Nature, acts on the part of any governmental authority, strikes or other labor related matters, or other elements of performance beyond the reasonable control of Seller. Dates of delivery shall be extended for a period equal to the time lost by reason of any such cause without liability or penalty of any kind. If, at any time, it shall appear that any delay resulting from any such cause shall exceed sixty (60) days, Seller may cancel the Purchase Order, and any contract arising or resulting from this Purchase Order without further obligation hereunder.



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8. Copyrights, Trademarks, Servicemarks and other Intellectual Property

To the extent that the Purchase/Sales order contemplates the production of Goods utilizing copyrights, trademarks, servicemarks, tradenames, or other intellectual property supplied to Seller by, or on behalf of, Seller (collectively, the "Intellectual Property"), Buyer represents and warrants that Buyer is either the owner, or the authorized licensee of such Intellectual Property, but in either case has the free and unencumbered right to utilize such Intellectual Property in the manner contemplated by ultimate utilization of the Goods. Such representation and warranty shall survive the manufacture and delivery of the Goods. Buyer hereby agrees to indemnify and hold Seller, its shareholders, officers, directors, agents, servants, employees, and each of their respective affiliates, harmless from and against any and all damages, losses and costs of defense (including reasonable counsel fees) arising out of the breach of such representation and warranty.

9. Goods Not of Seller's Manufacturer

If the Invoice is marked to show that the Goods are not of Seller's manufacture, in whole or in part, or if the Goods are not deemed to be of Seller's manufacture, in whole or in part, Buyer recognizes that, with respect to such Goods, Seller is not the manufacturer, but is merely a distributor or manufacturer's agent and does not manufacture the Goods.

A. Limited Warranty - Goods Not of Seller's Manufacture. If the Goods identified on the Invoice are identified as being manufactured by anyone other than Seller, then the provisions of this Section shall apply and the provisions of Section 5 of this Acknowledgment shall not apply.

(i) Buyer recognizes that with respect to Goods not manufactured by Seller, Seller is not the manufacturer, but merely a distributor or manufacturer's agent, and does not manufacture the Goods, and Seller has not participated in the design or testing of such Goods. SELLER THEREFORE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR OTHERWISE, CONCERNING SUCH GOODS, WHICH EXTEND BEYOND THE DESCRIPTION ON THE INVOICE.

(ii) Buyer acknowledges and agrees that no salesman, officer, agent or other representative of Seller, nor is any officer, agent or other representative of the manufacturer, is authorized to make any representation contrary to the foregoing and that any attempt to do so shall not be binding upon Seller.

B. Safety and Notice of Accidents - Machinery. Buyer shall use, and shall require its employees to use, in the operation of the Goods which constitute machinery all safety devices, guards, and proper safe operating procedures as are required by OSHA, other federal, state and local law and generally accepted safe manufacturing processes. Buyer shall not remove or modify any safety devices, guards or warning signs. Buyer shall notify Seller promptly, and in any event within thirty (30) days, of any accident or malfunction involving such Goods which results in personal injury or damage to property and shall cooperate fully with Seller in investigating and determining the cause of such accident or malfunction. If Buyer shall at any time resell such Goods, Buyer shall cause its purchaser to undertake the same obligations to Seller as



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Buyer has undertaken in this section, including without limitation the obligation stated in the immediately preceding sentence. If Buyer fails to strictly observe the obligations set forth in this Section, Buyer agrees to indemnify and hold Seller, its shareholders, officers, directors, agents, servants, employees, and each of their respective affiliates, harmless from and against any and all damages, losses and costs of defense (including reasonable counsel fees) resulting from persons or property injured directly or indirectly in connection with the operation of such Goods.

C. Special Goods. If the Quotation/Purchase Order provides for special machinery or special tooling, the Quotation will not bind Seller for those items until Seller shall have completed Seller's engineering, reviewed the prices on the basis of complete drawings and specifications and advised Buyer that Seller will deliver at the price(s) stated on the face hereof.

10. Electronic Transactions

Provided that both Buyer and Seller have completed and executed Seller's form of Electronic Trading Letter, in the event that the purchaser order of the Buyer is submitted by the Buyer to the Seller by electronic media, or the Seller has elected to acknowledge Buyer's purchase order by electronic media, these Terms and Conditions shall apply as if such transaction were not conducted by electronic media, and all such electronic communications and transactions shall be governed by the Uniform Electronic Transactions Act, as adopted by the Commonwealth of Pennsylvania, and be conducted pursuant to the terms of Seller's form of Electronic Trading Letter.

11. Confidentiality

Other than in connection with the use of the Goods in connection with the finished product, without the prior written consent of the Seller, Buyer may not disclose to any third party, documents, knowledge, information, tools molds, samples, models, profiles, drawings, Technical Data Sheets, manuscripts or other technical information in respect of the Goods covered hereby (the "Covered Information") regardless of the form of delivery thereof, including, but not limited to electronic media. Notwithstanding the forgoing, the term Covered Information shall not include information which at the time of receipt by the Buyer is generally known to the public or was created solely by the Buyer.

12. Miscellaneous

(i) Any tax imposed by federal, state, or other governmental authority on the sale or use of the Goods (other than income taxes imposed upon Seller in connection with Seller's business) shall be paid by Buyer in addition to the purchase price.

(ii) This Acknowledgment shall be construed in accordance with the laws of the State of North Carolina with respect to contracts to be executed and performed within the State of North Carolina.



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(iii) In the event of a dispute hereunder, Buyer and Seller consent to the exclusive jurisdiction of the courts sitting in Charlotte, North Carolina.

(iv) This Terms of Sale constitutes the entire understanding of Buyer and Seller with respect to the Goods covered hereby and supersedes all prior agreements and understandings (whether written or oral) with respect thereto.

(v) Subject to the limitations set forth in Section 5(d) hereof, which shall in all circumstances prevail, no amendment or other modification or attempted modification of the terms hereof shall be effective without a written agreement executed by a duly authorized officer of Buyer and Seller.

(vi) Any assignment of this Terms of Sale or of any rights hereunder or hypothecation hereof in any manner, in whole or in part, without the prior written consent of Seller shall be void. This Terms of Sale shall be binding upon the respective successors and (permitted) assigns of Buyer and Seller.

(vii) Failure of Seller to insist upon strict performance of any of the terms or conditions in this Terms of Sale, failure or delay to exercise any rights or remedies provided herein, shall not be deemed a waiver of any right of Seller to insist upon strict performance hereof or any of its rights or remedies, or as to any prior or subsequent default hereunder, nor shall any termination of this agreement operate as a waiver of any of the terms in this Terms of Sale.