

**TERMS AND CONDITIONS OF SALE OF FOIL TO BUSINESS CUSTOMERS
OF
KURZ HONG KONG LTD.**

庫爾茲香港有限公司

向商業客戶銷售箔膜之條款和條件

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1. Validity

有效性

1.1 The present Terms and Conditions of Sale (“T&C”) of KURZ HONG KONG LTD. (“KHK”) shall apply only to (i) supplies of foil and services including the provision of application services for finished decorated parts (“Delivery(ies)”), which KHK has made on the basis of a contract (“Contract”) concluded with a business customer thereof (“Customer”), as well as to (ii) any offer made by KHK for a Delivery to a potential Customer (“Offer”).

庫爾茲香港有限公司（“庫爾茲香港”）的現有銷售條款和條件（“條款和條件”）僅適用於（i）庫爾茲香港與庫爾茲香港的商業客戶（“客戶”）訂立的合同（“合同”）基礎上進行的箔膜的供應和服務，包括為包裝後成品部分所提供的應用服務（“交付”），以及（ii）庫爾茲香港向潛在客戶為交付而提出的任何報價（“報價”）。

1.2 These T&C and the Contract constitute the entire and sole record of the agreement between a Customer and KHK in respect of Deliveries. KHK shall not be bound by any express, tacit or implied representation, warranty, promise or the like not recorded herein. Any conditions of purchase or other general terms and conditions of a Customer and any other terms and conditions deviating from these T&C and the Contract (including any term or condition therein that stipulates that they shall override or supersede these T&C and the Contract or similar or the like wording) shall not apply unless KHK has expressly agreed to them in writing and with reference to the specific term or condition.

該等條款和條件以及合同構成了客戶和庫爾茲香港之間就交付而達成的整體且唯一的協議。庫爾茲香港不應受合同中未記錄的任何明示、默示或暗示的聲明、保證、承諾或同等行為的約束。客戶的任何採購條件或其他一般條款和條件，以及任何與該等條款和條件以及合同相背離的任何其他條款和條件（包括當中規定了其應推翻或取代該等條款和條件及合同或類似或同等的措詞的任何條款或條件）均不適用，除非庫爾茲香港以書面並參照特訂的條款或條件而明確同意其適用。

1.3 Unless the context otherwise requires, in these T&C, words expressed in the singular include the plural and vice versa, and a gender includes the other gender. “Hong Kong” means Hong Kong Special Administrative Region of the People’s Republic of China.

除非上下文另有要求，在該等條款和條件中，以單數形式表達的單詞包括複數，反之亦然，且一種性別包括另一種性別。“香港”指中華人民共和國香港特別行政區。

2. Offers

報價

2.1 KHK reserves all ownership and intellectual property rights in all documents, including but not limited to illustrations, drawings, plans and construction or engineering documents, etc. relating to any Offer.

庫爾茲香港保留所有與任何報價相關的所有文件的所有權及知識產權，包括但不限於圖示、圖紙、方案和建造或工程檔等的所有權及知識產權。

2.2 Unless earlier withdrawn before acceptance, an Offer is binding on KHK and valid only if it is fully accepted by the Customer without qualification within 45 calendar days from the date of the Offer. Upon acceptance of the Offer, the Customer shall be deemed to have accepted these T&C in full unconditionally and irrevocably.

除非庫爾茲香港在客戶接受報價之前撤銷報價，只要客戶自報價日起 45 天內無條件地完全接受報價，該報價對庫爾茲香港具有約束力且有效。接受報價後，客戶會被視為已完全並無條件且不可撤銷地接受該等條款和條件。

3. Terms of Delivery, Transfer of Risk

交付條款、風險轉移

3.1 According to Incoterms® 2010, prices of Deliveries shall be Ex Works KHK ("Place of Delivery"), which includes packaging.

根據 2010 年國際貿易術語解釋通則，交付價格規定為庫爾茲香港（“交付地點”）工廠交貨價，含標準包裝。

3.2 Subject to Clause 8.6, prices of a Delivery are net prices in such currency as stated in the Offer without further deductions.

受制於第 8.6 條，交付價格為以報價中規定的該等貨幣形式的淨價，不得作進一步扣減。

3.3 If a Delivery is dispatched or collected, the risk shall transfer to the Customer Ex Works KHK, according to Incoterms® 2010. This shall apply to free Deliveries as well.

如果交付項下貨物已經被派遣或已被接收，根據 2010 年國際貿易術語解釋通則，庫爾茲香港工廠交貨時，交付風險將轉移給客戶。本條款亦適用於無償交付。

4. KHK's Right to make its own Deliveries

庫爾茲香港自行交付之權利

In the event that the contractually agreed Delivery is not available because KHK has not received deliveries in time from its own suppliers or KHK's delivery stock is depleted or insufficient, KHK is entitled to make a partial Delivery, or a replacement Delivery which is equivalent in quality of and price to the contractually agreed Delivery. If this is not possible or is not accepted by the Customer, the Customer agrees that KHK may terminate the Contract without any compensation to the Customer and the Customer shall not be entitled to any form of loss or damage against KHK in relation thereto.

若因庫爾茲香港未從其自身供應商處及時收到貨物或庫爾茲香港的供貨庫耗盡或短缺而導致無法按合同約定交付，庫爾茲香港有權進行部份交付，或以與合同約定交付相同的品質和價格進行替代性交付。若此仍不可行或客戶不接受，客戶同意庫爾茲香港可解除合同，無需向

客戶提供任何賠償，且客戶無權就該等合同解除對庫爾茲香港要求任何形式的損失或損害賠償。

5. Terms of Payment

付款條件

5.1 Unless otherwise agreed, KHK's invoices are due for immediate payment upon receipt by the Customer without any deduction, despite that title of the items under the Delivery has not been passed to the Customer as stated under Clause 7 and KHK shall accordingly be entitled to sue for the price once it is due. If KHK recovers possession of such items, such recovery of possession shall be without prejudice to the rights of KHK to any other loss and damage suffered.

除非另有約定，儘管交付項下貨品的所有權如第 7 條規定尚未轉移至客戶，庫爾茲香港的發票於客戶收票後即到期應付，並不得作任何扣減。一旦發票到期，則庫爾茲香港據此有權追討欠款。若庫爾茲香港重新獲得該等貨品的所有權，該等重新獲得所有權不得損害庫爾茲香港就其任何其他損失及遭受的損害追討賠償的權利。

5.2 The Customer may only set off from the price for a Delivery the amount of those of its claims against KHK that are undisputed or have been finally and conclusively determined in a legally binding manner.

客戶只可就對庫爾茲香港的無爭議的債權或經具有法律約束力的方式而被最終及不可推翻地確定的債權，將該等債權金額從交付價格中抵銷。

6. Delivery Dates

供貨日期

6.1 Observance of the stipulated time for Delivery is conditional on the timely receipt of all documents, necessary permits and approvals, especially of plans to be provided by the Customer as well as fulfilment of the agreed terms of payment and other obligations by the Customer. Unless these conditions are fulfilled on time, the time for Delivery shall be extended accordingly; this Clause 6.1 shall not apply if KHK is solely responsible for the delay as provided in Clause 6.3.

遵守約定的交付時間是有條件的，取決於是否及時收到所有文件、必要的許可和批准，特別是將由客戶提供的方案及客戶是否按約定完成付款並履行其他約定義務。除非該等條件按時得以滿足，否則交付時間將相應順延；若庫爾茲香港對第 6.3 條規定的延遲負有單獨責任，本第 6.1 條則不適用。

6.2 If non-observance of the time for Delivery is due to force majeure ("Force Majeure") such as an act of God e.g. earthquake, typhoon and tsunami, financial crisis or changes in financial conditions, e.g. increase of cost in obtaining supplies by over 5% and downturn in the business of foil supply, mobilization, war, riot or similar events e.g. strike or lock-out, the time limits shall be extended appropriately to a reasonable time until after the Force Majeure

event has ceased.

若因不可抗力因素（“**不可抗力**”）而未能遵守**交付**時間，例如，天災，如地震、颱風和海嘯；財務危機或財務情況的變化，如取得供應品的成本增長了**5%**以及箔膜供應業務的衰退；動員、戰爭、暴亂或相似事件，如罷工或停工，該時間限制應延長直至**不可抗力**事件終止後的一個合理時間。

6.3 In the event that KHK is solely responsible for a delay of the Deliveries and that the Customer can establish with substantive grounds and evidence that it has suffered a loss due solely to such delay, the Customer may claim liquidated damages of 0.5% of the net price for such Deliveries for every completed calendar week of delay but in no event shall the aggregate of such damages exceed a total of 5% of the net price for such Deliveries.

如果**庫爾茲香港**對**交付**延遲負有單獨責任且**客戶**能以實質的理由和證據證實其單純因該延遲而遭受損失，**客戶**則可要求**庫爾茲香港**支付違約金，每延遲一個日曆周，違約金為該**交付**的淨供貨價的**0.5%**，但不論任何情形下，該違約金的總金額最高不超過該**交付**的淨供貨價的**5%**。

6.4 For the purpose of clarification, the limit of liability under Clause 6.3 shall apply to claims by the Customer for damages due to a delay of Delivery even after expiry of the time limit for Delivery fixed by the Customer. This limit shall not apply in cases of bodily injury or death, wilful misconduct or gross negligence where liability is mandatory.

為作澄清，即使**客戶**於其設立之**交付**時限屆滿後才因**交付**延遲而提出損害賠償申索，第**6.3**條項下的責任限制仍然適用。然而，該限制在具有強制責任的人身傷害或死亡事故、故意不當行為或嚴重疏忽的情況下，則不得適用。

6.5 For the purpose of this Clause 6, the Customer shall only be entitled to terminate the Contract to the extent that (i) KHK is solely liable for the delay in Delivery and (ii) the Customer has set a reasonable time limit within which to perform the Delivery and states that it will cease to accept the Delivery after expiry of the new time limit and KHK has not made the Delivery within such new time limit. In such case, the Customer may only claim liquidated damages against KHK in the amount of no more than 5% of the net price for the Deliveries.

為本第**6**條之目的，只有在 (i) **庫爾茲香港**對**交付**延遲負有單獨責任的情況下，以及 (ii) **客戶**已為**庫爾茲香港**設立合理時間限制以在該合理時間限制內履行**交付**義務，並表明其將在新的時間限制屆滿後將停止接受**交付**且**庫爾茲香港**在該新的時間限制內仍未**交付**的情況下，**客戶**才有權解除合同。在該等情況下，**客戶**有權向**庫爾茲香港**要求支付不超過**交付**淨供貨價**5%**的違約金。

6.6 Notwithstanding Clause 6.5, despite the delay in Delivery by KHK as mentioned under Clause 6.5, the Customer shall upon request by KHK and within a reasonable time limit state whether it shall terminate the Contract due to the Delivery being delayed or insist upon a Delivery.

儘管有第**6.5**條的規定，倘若出現了在第**6.5**條項下提及的**庫爾茲香港**的**交付**延遲，**客戶**應根

據庫爾茲香港的要求在合理時間內表明其是否會因交付延遲而解除合同或堅持要求交付。

7. Retention of Title

所有權保留

7.1 All the items delivered ("Secured Goods") shall remain KHK's property until each and every claim against the Customer to which KHK is entitled under any Contract and these T&C has been duly satisfied. Notwithstanding the retention by KHK of title to the Secured Goods, the risk in the Secured Goods shall pass to the Customer as provided in Clause 3.3. If the value of all KHK's security interests against the Customer exceeds 20% of the value of all KHK's secured claims, KHK shall release a corresponding part of the security rights at the Customer's request.

所有已交付的貨品（“擔保貨物”）仍屬庫爾茲香港的財產，直至庫爾茲香港根據任何合同及該等條款和條件對客戶享有的每一項及所有債權均得以充分實現為止。儘管庫爾茲香港對擔保貨物保留所有權，擔保貨物的風險應根據第 3.3 條轉移至客戶。如果庫爾茲香港對客戶所有擔保利益的價值超過庫爾茲香港全部擔保債權價值的 20%，庫爾茲香港應經客戶要求，解除相應部份的擔保權利。

7.2 For the duration of the retention of title of the Secured Goods as provided above:

在如上所述的擔保貨物的所有權保留期間：

7.2.1 the Customer shall during such time hold the Secured Goods as the fiduciary agent of KHK and shall accordingly remain liable to account to KHK for the Secured Goods;

客戶在該期間內應以庫爾茲香港的受託代理人身分持有擔保貨物，並相應地仍負有就擔保貨物向庫爾茲香港承擔責任的義務。

7.2.2 the Customer is prohibited from creating any pledge or security over the Secured Goods, and in case of a seizure of the Secured Goods or other acts or interventions by third parties relating to the Secured Goods, the Customer shall immediately inform KHK thereof in writing; and

客戶被禁止對擔保貨物設立任何質押或抵押，且在擔保貨物被扣押或第三方對有關擔保貨物作出其它行為或進行處置的情況下，客戶須立刻以書面通知庫爾茲香港；以及

7.2.3 the Customer shall store the Secured Goods separate from other goods of the Customer and third parties and shall identify the Secured Goods as the property of KHK. The Customer shall not remove any identifying marks placed on the Secured Goods by KHK or use the Secured Goods for manufacture of any goods or transfer the Secured Goods to any third party.

客戶應將擔保貨物與客戶和第三方的其他貨物分別儲存，並將擔保貨物標明為庫爾茲香港的財產。客戶不得將庫爾茲香港在擔保貨物上所作的任何識別標記刪除或使用擔

保貨物生產任何貨物或將擔保貨物轉移至任何第三方。

7.3 In the event that the Customer is in breach of an obligation, in particular, a default of payment pursuant to Clause 5.1, the following shall also apply:

如果客戶違反了任何一項義務，特別是根據第 5.1 條的付款違約，下述條款也將適用：

7.3.1 If the Customer fails to pay the price of the relevant Delivery on time in accordance with Clause 5.1 hereof, KHK shall be entitled to interest from the day on which payment was due until the date of actual payment. The rate of interest shall be five (5) percentage points above the rate of the HK Interbank Offered Rate (“HIBOR”) quoted for the corresponding maturity period for HKD in force on the due date of payment.

如果客戶未按本條款和條件第 5.1 條規定按時支付相關交付的價格，則庫爾茲香港有權收取從付款到期日起至實際付款日期間的利息。利率應為付款到期日當時有效的港幣相應期間的香港銀行同業拆借利率上浮五(5)個百分點。

7.3.2 Immediately upon the default of payment by the Customer pursuant to Clause 5.1 or following the expiry of reasonable time limit stipulated by KHK (if any) within which the Customer must rectify the breach and the Customer fails to do so:

在客戶對第 5.1 條規定的付款違約後，或在庫爾茲香港規定客戶應糾正違約的合理時限（如有）屆滿時而客戶未有糾正違約之後：

(i) KHK has the absolute authority to terminate the Contract and KHK and/or any of its agents or authorized representatives shall have the absolute authority to retake, sell or otherwise deal with or dispose of all any or part of the Secured Goods without any form of liability to the Customer, and the Customer is obliged, at its own cost, to return the Secured Goods to KHK or KHK’s agents or authorized representatives;

庫爾茲香港立即有絕對權限以解除本合同，且庫爾茲香港及/或任何其他代理人或授權代表有絕對權限收回、出售或以其他方式處理或處置所有任何或部分擔保貨物而無須向客戶承擔任何形式的責任，客戶亦有義務自負費用將擔保貨物退還給庫爾茲香港或庫爾茲香港的代理人或授權代表；

(ii) For the purpose specified in (i) above, KHK or any of its agents or authorized representatives shall be entitled at any time and without notice to enter upon any premises in which the Secured Goods or any part thereof is installed, stored or kept, or is reasonably believed to be so;

為上述（i）項所述之目的，庫爾茲香港或任何其他代理人或授權代表有權在任何時候且無須通知的情況下，進入安裝、儲存或保管擔保貨物或其任何部分的任何場所，或進入被庫爾茲香港合理認為已安裝、儲存或保管擔保貨物或其任何部分的該等場所；

(iii) KHK shall be entitled to seek a Court injunction to prevent the Customer from selling, transferring or otherwise disposing of the Secured Goods or any part thereof;

庫爾茲香港有權尋求法庭禁令以防止客戶出售、轉移或以其他方式處置擔保貨物或擔

保貨物的任何部分；

- (iv) If the Secured Goods are already sold by the Customer, KHK shall be entitled to the amount of unpaid purchase price of the Contract under all proceeds or proceeds in relation thereto as mentioned under Clause 7.2.2, and the Customer shall upon the demand of KHK and/or its agents or authorized representatives, remit or pay the same to KHK.

若客戶已出售擔保貨物，庫爾茲香港對所有收益當中的合同未支付的購買價格，或對第 7.2.2 條所提及的與擔保貨物相關的收益項下的合同未支付的購買價格均享有權利，且客戶應根據庫爾茲香港及其代理人或授權代表的要求，向庫爾茲香港匯入或支付該等款項。

8. Material Defects

重大缺陷

KHK's liability for Material Defects (as defined in Clause 8.2) is conclusively defined in the following provisions:

庫爾茲香港對重大缺陷（於第 8.2 條中之定義）的責任於以下條款中作最終定義：

8.1 The description of the quality of the foils is defined conclusively in the respective Technical Specification of KURZ ("TS") for the individual foil. KHK shall not be liable for material defects relating to qualities not specifically mentioned in the TS. To the fullest extent permissible under the applicable law, KHK expressly disclaims all guarantees, representations, statements, or warranties of any kind (whether express, implied in law or from a course of dealing or usage of trade or residual) including but not limited to implied warranties of merchantability, quality, accuracy, non-infringement, and fitness for a particular purpose, whether or not the purpose or use has been disclosed to KHK. It is the sole responsibility of the Customer to examine the suitability of the foils for the intended use.

庫爾茲香港已在單個箔膜的相關技術規格（“技術規格”）中對箔膜的品質描述作出最終定義。庫爾茲香港對與技術規格中未具體提及的品質水準有關的重大缺陷不承擔責任。在適用法律允許的最大範圍內，庫爾茲香港明確表明不承擔所有保證、聲明、陳述或任何形式的擔保（無論是在法律中明示或暗示的或是從交易過程或交易習慣或其他慣例當中），包括但不限於對商業可銷售性、品質、準確性、非侵權以及為特定用途之適當性的隱含保證，無論該目的或用途是否已向庫爾茲香港披露。檢驗箔膜是否符合預期用途是客戶單獨的責任。

8.2 In the case of Deliveries of foils which the Customer can establish with substantive grounds and evidence pursuant to Clause 8.4 that the foils do not meet the quality listed in the respective TS and the defects do not fall under the exclusions under Clause 8.7 ("Material Defect") at the time of transfer of risk, KHK shall at its option either repair or re-deliver them at no charge ("Subsequent Performance").

如交付箔膜時，客戶能根據第 8.4 條以實質的理由和證據證實在風險轉移時，箔膜不具備相關技術規格中列明的品質水準且缺陷不符合第 8.7 條所排除的狀況（“重大缺陷”），庫爾茲香港有權自行選擇免費修復或免費重新發運貨物（“後續履行”）。

8.3 The warranty period for foil delivered shall be 6 months as of the Delivery. The warranty period for the repaired or replaced foil remains to be 6 months as of the Delivery of the original foil, and therefore the warranty period shall not be extended as a result of Subsequent Performance.

交付的箔膜的質保期為交付起六個月。已被修復或替代的箔膜的質保期仍為初始箔膜交付起六個月，因此質保期不得因後續履行而被延長。

8.4 The Customer shall give KHK notice of a Material Defect in writing without undue delay. The notice of Material Defect shall include details of the seal tape system relating to Delivery (batch number, bar code).

客戶應將重大缺陷以書面通知庫爾茲香港，且不得無理拖延。該重大缺陷通知應包括與交付有關的封條系統上的詳細資訊(批號、條碼)。

8.5 If KHK shall not be given adequate time and opportunity to carry out Subsequent Performance, or if Clause 8.7 or Clause 8.9 applies, KHK shall have no liability for the Material Defect notwithstanding any other provisions that may be to the contrary under these T&C.

如果庫爾茲香港未被給予充足的時間和機會進行後續履行，或如果第 8.7 條或第 8.9 條適用，則庫爾茲香港對重大缺陷不承擔責任，儘管任何其他條款可能與本條款和條件相反。

8.6 In the event that Subsequent Performance fails, the Customer can - without prejudice to other claims for damages stipulated in Clause 12 - terminate the Contract or negotiate with KHK for a reduced price of the Delivery.

在未能進行後續履行的情況下，客戶可以在不影響第 12 條規定的其他損害賠償申索的前提下，解除合約或與庫爾茲香港協商降低交付的價款。

8.7 Claims for Material Defects shall not be made by the Customer in the event of an insignificant deviation from the agreed quality, insignificant interference with use, natural wear and tear or damages which arose after transfer of risk as a result of faulty or negligent handling, excessive strain, unsuitable production facilities or operating resources, or particular external influences which are not assumed under the Contract.

在對約定品質不構成重大偏離，對使用未形成重大干擾、自然損耗或在風險轉移後因錯誤或過失處理、過度拉伸、不合適的生產設施或操作資源而產生的損毀、或受未在合同項下假定的特殊外來影響的情況下，客戶不得就重大缺陷提出索償主張。

8.8 Claims made by the Customer for necessary costs such as transport, route, labour and material costs incurred for the purposes of Subsequent Performance, are excluded to the extent that the expenditure has increased due to the Delivery being subsequently made to a place other than the Place of Delivery.

客戶就其為後續履行之目的而產生的必要費用，如交通、路線、人工及材料費用而提出索償主張，如該費用乃因交付至原定交付地點以外的其他地點而增加的，則該等增加的費用的索

償將被排除。

- 8.9 The Customer shall only have a right of recourse against KHK if the Customer has not entered into a contract with its client under which such client waives its claims or does not claim any compensation for the Material Defects.

客戶僅在其未與其客戶簽訂一份根據該合同該客戶就**重大缺陷**放棄索償主張或不要求任何賠償的合同的的情況下，才可向**庫爾茲香港**追償。

- 8.10 Claims by the Customer against KHK for a Material Defect which are more extensive or different to those claims set out in this Clause 8 are excluded. Clause 12 shall apply to all other claims for damages.

若客戶就**重大缺陷**向**庫爾茲香港**提出的索償主張超出或有別於本第 8 條的規定，則該等索償主張均被排除。第 12 條將適用於所有其他損害賠償主張。

9. Intellectual Property Rights, other Defects of Title

知識產權，其它所有權瑕疵

- 9.1 Unless otherwise agreed, the Delivery made by KHK shall be free from intellectual property rights, including and not limited to copyright, ("Intellectual Property Rights") of third parties, i.e. any party apart from KHK, the Customer and their respective associates ("Third Party"). If a Third Party asserts legitimate claims against the Customer due to an infringement of an Intellectual Property Right by the Deliveries furnished by KHK and used in conformity with the Contract and such infringement is finally and conclusively determined in a legally binding manner in favour of the Third Party, KHK shall be liable to the Customer within the stipulated time limit in Clause 8.3 as follows:

除非另行約定，否則**庫爾茲香港**交付的貨品不應包含第三方，即除**庫爾茲香港**之外的任何方、**客戶**及其各自的關聯公司（“**第三方**”）的智慧產權，包括且不限於著作權（“**知識產權**”）。如果有**第三方**因**庫爾茲香港**交付的且**客戶**按合同使用的貨品侵犯**知識產權**而向**客戶**提出合法申索，且該**第三方**就該侵權申索以具有法律拘束力的方式最終及不可推翻地獲判勝訴，則**庫爾茲香港**將在第 8.3 條限定時限內按以下規定向**客戶**承擔責任：

- 9.1.1 At KHK's own option and expense, KHK shall either obtain a right to use the Deliveries, modify the Deliveries so as not to infringe Intellectual Property Rights or replace the Deliveries. If this is not possible on the basis of terms acceptable to KHK, the Customer shall have a right to terminate the Contract or negotiate with KHK for a reduced price of Delivery. The provisions in Clause 8.5 and 8.9 shall also apply accordingly.

庫爾茲香港可依其選擇及自理費用的情況下，以獲得對交付貨品的使用權，或更改交付貨品以使其不侵犯**知識產權**，或替換交付貨品。若上述選擇不可能以**庫爾茲香港**可接受的條件為基礎下執行，則**客戶**有權解除合同或與**庫爾茲香港**協商降低交付的價款。第 8.5 和 8.9 條也應相應適用。

9.1.2 The fulfilment of the aforesaid obligations shall be subject to the condition that the Customer immediately notifies KHK in writing of the claims asserted by the Third Party, that the Customer has not acknowledged an infringement and that all countermeasures and settlement negotiations are reserved to KHK. If the Customer stops using the Deliveries to reduce the damage or loss or for other important reasons, he shall make it clear to the Third Party that the suspended use does not constitute any acknowledgment of an infringement of Intellectual Property Rights. Further, if KHK notifies the Customer that it wishes to take over the conduct of the settlement negotiations with the Third Party and/or the legal proceedings initiated by the Third Party in the name of the Customer, the Customer shall allow KHK to do so and provide all such reasonable assistance to KHK as it may request provided that KHK shall bear the legal costs in such negotiations and the defence in such legal proceedings.

上述義務履行的條件是客戶須立即將第三方的申索以書面通知庫爾茲香港，且客戶未承認侵權而庫爾茲香港保留採取所有對策和協商解決糾紛的權利。如果客戶為減少損害或損失或基於其他重要原因停止使用交付貨品，客戶應向第三方清楚表明，該暫停使用並不構成對知識產權侵犯的任何承認。此外，如果庫爾茲香港告知客戶其希望以客戶的名義接管與第三方的和解協商及/或由第三方提起的法律訴訟，客戶應允許庫爾茲香港採取此種行為，並根據庫爾茲香港可能提出的要求向庫爾茲香港提供所有該等合理的協助，前提是庫爾茲香港承擔該等協商及該等法律訴訟中的答辯的法律費用。

9.2 Claims of the Customer under this Clause 9 shall be excluded if he is liable for the breach of the Intellectual Property Right.

如客戶須就侵犯知識產權負責，則其在本第 9 條項下的申索將被排除。

9.3 Claims of the Customer under this Clause 9 shall also be excluded if the infringement of Intellectual Property Rights was caused by specific demands of the Customer, by a use of the Deliveries not foreseeable by KHK or by the Deliveries being altered by the Customer or being used together with products not provided by KHK.

如果知識產權侵權是由客戶的特定要求、或庫爾茲香港不可預見的對交付貨品的使用、或被客戶更改的交付、或客戶將交付貨品與非庫爾茲香港提供的產品一同使用所引起，則客戶提出本第 9 條項下之申索亦將被排除。

9.4 The provisions in Clause 8 shall apply to any other defects of title to the extent that the Material Defects shall be considered as any other defects of title.

在重大缺陷被視作任何其他所有權瑕疵的範圍內，第 8 條的規定將適用於任何其他所有權瑕疵。

10. Obligations of the Customer

客戶的義務

The Customer shall be solely liable for the use and transfer of design, logos, trademarks,

holograms, stamping tools and other creative elements supplied by Customer to KHK - irrespective of the data carrier - which has infringed the Intellectual Property Rights of Third Parties. The Customer shall hold KHK harmless against all corresponding claims of Third Parties.

客戶將自行承擔由客戶提供給庫爾茲香港的且已侵犯第三方知識產權的設計、標誌、商標、全息圖，燙印工具及其他創作性元素(不論何種資料載體)的使用和轉讓所產生的責任。客戶須確保庫爾茲香港免於承擔所有相應的第三方申索。

11. Impossibility, Adjustment of the Contract

未能履行合同，合同調整

11.1 Subject to Clause 6 and Clause 11.2, if it is impossible for KHK to make the Delivery, the Customer shall be entitled to claim damages unless KHK is not responsible for the impossibility. The Customer's claim for damages, however, shall be limited to 10% of the value of the net price of that part of the Delivery which owing to the impossibility cannot be put to the intended use by the Customer. The Customer's right to terminate the Contract shall remain unaffected.

受制於第 6 條和第 11.2 條，如果庫爾茲香港無法進行交付，客戶有權提出損害賠償申索，除非庫爾茲香港對不能交付無須負責。但客戶的損害賠償申索應限於因不能交付而無法供客戶預期使用的該交付部分淨價的 10%。客戶解除合同的權利仍不受影響。

11.2 Where unforeseeable events of Force Majeure substantially change the economic importance or the content of the Deliveries or bring a considerable impact on KHK's business, the Contract shall be adapted accordingly with due regard to the principle of good faith. Where this is not economically reasonable, KHK has the right to terminate the Contract. If KHK makes use of this right of termination, KHK shall notify the Customer in writing after becoming aware of the significance of the event, notwithstanding that an extension of the Delivery time had initially been agreed with the Customer. The Customer shall not be entitled to claim any damages against KHK due to any Force Majeure events.

如果不可預見的不可抗力事件實質性改變了交付的經濟價值或其內容又或對庫爾茲香港的業務有巨大影響，則合同應在合理考慮誠信原則的基礎上作相應的修改。若該修改不具經濟合理性，庫爾茲香港有權解除合同。如庫爾茲香港行使該解除權，庫爾茲香港應在得悉該事件的重要性後書面通知客戶，儘管客戶已經事先同意可以延長交付時間。客戶無權因任何不可抗力事件而向庫爾茲香港提出任何損害賠償申索。

12. Other Claims for Damages

其他損害賠償申索

12.1 Any other claims for damages apart from those stipulated under Clause 6 and 11 are governed as follows:

如下條款適用於除第 6 條和第 11 條規定的該等賠償申索之外的任何其他損害賠償申索：

12.1.1 Any such other claims for damages of the Customer shall be excluded regardless of whether they are based on duties arising under the contractual relationship or tort.

不論是由合同約定的關係產生還是基於侵權法產生的義務，客戶的任何該等損害賠償申索均應被排除。

12.1.2 KHK provides practical guidelines and advice in good faith without any liability to Customer. The Customer shall not be released from his obligation to examine the intended use of the foil at his sole responsibility. This shall apply even if KHK is aware of the Customer's application of use.

庫爾茲香港系出於誠信提供應用指引和建議，並不對客戶承擔任何責任。客戶單獨負責檢驗箔膜預定用途的義務不得被解除。即使庫爾茲香港知曉客戶的應用方法，本條款仍適用。

12.1.3 KHK's liability for damages arising from the fundamental non-performance of contractual obligations of the Contract shall be limited to foreseeable damage normally covered by the Contract at the time of the conclusion of the Contract.

庫爾茲香港對於根本性違反合同義務而產生的損害賠償的責任應限於合同訂立時合同通常涵蓋的可預見損失。

12.1.4 Notwithstanding any other provisions hereof to the contrary, loss of profits and the indirect and consequential losses of the Customer shall be excluded from the scope of KHK's liability and the aggregate liability for breach to be assumed by KHK hereunder, including but not limited to the compensation for loss and liquidated damages, shall be limited to a maximum amount equivalent to 10% of the net price of the foil under the relevant Contract.

無論本條款和條件項下有任何其他相反的規定，庫爾茲香港的責任範圍中應排除客戶的利潤損失以及非直接和間接損失，且庫爾茲香港在本條款和條件項下就違約而承擔的總責任，包括但不限於損失賠償和算定損害賠償，將不超過相當於相關合同項下箔膜淨價的 10%。

12.2 Insofar as KHK's liability pursuant to this Clause 12 is excluded or restricted, this shall also apply to the personal liability of its employees, personnel, staff and other agents.

在庫爾茲香港的責任根據本第 12 條被排除或限制的範圍內，該排除或限制亦適用於其員工、人員、僱員和其他代理人的個人責任。

12.3 To the extent that the Customer is entitled to claim for damages according to this Clause 12, these shall be raised within 6 months from the date of Delivery, and if the claim is not raised within such 6 months, it shall be deemed waived or foregone by the Customer.

在客戶根據本第 12 條有權提出損害賠償申索的情況下，該主張應在交付之日起 6 個月內被提出。如果申索未在 6 個月內被提出，客戶將被視為放棄或摒棄該申索。

12.4 The limitation of KHK's liability under this Clause 12 shall not apply in cases of bodily

injury or death, wilful misconduct or gross negligence where liability is mandatory.

本第 12 條項下庫爾茲香港的責任限制不適用於造成人身傷害或死亡、故意不當行為或嚴重疏忽的其責任為強制性的情況。

13. Confidentiality

保密

13.1 A party shall not without the written consent of the other party pass the other party's documents, knowledge and information, tools, molds, samples, models, profiles, drawings, data standard sheets, manuscripts and other technical documentation - irrespective of the data medium - ("Confidential Information") to Third Parties or use such Information for purposes other than for the purposes of the Contract. This shall not apply to Confidential Information which at the time of receipt (i) are generally known or were already known by the public or the receiving party without being obliged to maintain the duty of confidentiality, (ii) were transferred by a Third Party or (iii) were developed by the receiving party without breaching the confidentiality obligations hereunder.

一方不應在沒有取得另外一方的書面同意前將另一方的文件、知識和資訊、工具、模具、樣品、模型、檔案、圖紙、資料標準圖表、手稿和其他技術文件(不論以任何資料媒介) (“**保密信息**”) 傳遞給**第三方**或為**非合同**目的使用該**保密信息**。本條款不適用於在接收該**保密信息**時 (i) 已被普遍知曉或已被眾所周知或之前已為沒有**保密義務**的接受方所知 (ii) 被**第三方**轉移或 (iii) 之前在不違反本**條款和條件**項下**保密義務**的前提下已由接收方進行開發的**保密信息**。

13.2 Confidential Information and all copies thereof held by the Customer shall be returned to KHK without delay if a Contract is not awarded. The Customer is not entitled to a right of retention to such Confidential Information and any copies thereof.

如果合同並沒有批予**客戶**，**客戶**須將其持有的**保密信息**及所有有關複製品毫不遲延地歸還給庫爾茲香港。**客戶**對該等**保密信息**及**保密信息**的任何複製品不享有留置權。

14. Dispute Resolution and Applicable Law

爭議解決及適用法律

Any dispute, controversy or claim arising out of or relating to these T&C or any Contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in Hong Kong under the UNCITRAL Arbitration Rules in accordance with the Procedures for the Administration of International Arbitration of the Hong Kong International Arbitration Center ("HKIAC") in force at the date when the notice of arbitration is submitted in accordance with these Rules. The number of arbitrators shall be three. The arbitration shall be held in the English language. The place of arbitration shall be in the Hong Kong Special Administrative Region at the HKIAC, unless the parties agree otherwise. The arbitration award shall be final, binding on the parties and not subject to any appeals, and shall deal with the matter of costs for arbitration and all matters related thereto.

任何由本**條款和條件**或任何**合同**、或違反**合同**或**條款和條件**、或解除**合同**或**條款和條件**、或

合同或條款和條件無效所引起的或有關的任何爭議、糾紛或索賠，應根據聯合國國際貿易法委員會仲裁規則由香港國際仲裁中心（“HKIAC”）按照提交仲裁通知之日有效的國際仲裁管理程式在香港通過仲裁解決。仲裁員人數應為三名。仲裁應以英語進行。仲裁地點是在香港特別行政區香港國際仲裁中心，除非雙方另有約定。此仲裁裁決是終局的，對當事人具有約束力且當事人不得就仲裁裁決上訴，並須按仲裁裁決支付仲裁費用及處理與此有關的所有事項。

These T&C and the formation of any Contract, their validity, termination, interpretation, execution and the settlement of any dispute arising thereunder shall be governed by the laws of the Hong Kong.

本條款和條件以及任何合同的訂立、其效力、終止、解釋、執行及由此產生的任何爭議之解決均受香港特別行政區法律管轄。

15. Language

語言

These T&C shall be made in English and the Chinese translation is only for reference. In case of discrepancies between the English version and the Chinese translation, the English version shall prevail.

本條款和條件應以英文制訂，中文翻譯只作為參考。如果本條款和條件的英文文本和中文翻譯有任何不一致，應以英文文本為準。