

## GENERAL TERMS AND CONDITIONS

This GENERAL TERMS AND CONDITIONS (the “**General Terms**”) shall apply to any transactions, agreements or contracts between TsubameLabo, Inc., a corporation organized under the laws of Japan, with its registered address at 1-21-1 Hanegi, Setagaya-ku, Tokyo 156-0042 Japan (“**Company**”) and its customer (“**Customer**”). Customer and Company are individually referred to as a “**Party**” and are collectively referred to as the “**Parties.**”

### ARTICLE I Definitions

**1.1** “**Confidential Information**” means Intellectual Properties, and any and all business information and privacy information, in any form or media disclosed by Company and its affiliates to Customer, whether disclosed in writing, orally, in electronic data, by visual inspection, observation or otherwise and whether or not marked as “confidential.”

**1.2** “**Intellectual Properties**” means current and future intellectual property rights and interests of Company and its affiliates, including but not limited to any patent, copyright, design, trademark, brand names, product names and logos, domain names, trade secrets, know-how and technical information, in connection with any Company’s products/services.

**1.3** “**Platform**” means any and all Company’s service platforms, including but not limited to Company’s websites, SNS, applications, programs, order processes through emails, facsimile, telephones or face-to-face communication, etc., where Customer orders the Products and/or Company accepts such orders.

**1.4** “**Products**” and “**Prices**” mean Company’s products/services and their prices shown or displayed at the Platform. Company reserves the right to, at its sole and absolute discretion, modify, add or delete the Products, or modify Prices at the Platform at any time. Customer shall have no claim against Company for failure to furnish the Products of the models, designs or types previously supplied.

**1.5** “**User Account**” means a valid user account, necessary at any time to use the Platform, which Customer shall create and maintain in accordance with the General Terms and other requirements notified from time to time by Company. Such requirements include, without limitation, submission of certain documents per the Company’s requests, compliance with laws and regulations, etc. Company may at any time limit, modify or terminate the Customer’s User Account at the Company’s sole and absolute discretion.

### ARTICLE II Order

**2.1** After Customer successfully creates the User Account at the Platform, Customer may request a fee estimate specifying the Products, their amounts/volumes, their specifications, etc. in accordance with the General Terms and other instructions shown at the Platform. When Company receives the request, Company will send the fee estimate at the Platform within a reasonable period of time.

**2.2** Based on the fee estimate, Customer may place a purchase order of the Products at the Platform. When Company receives the purchase order, Company will notify Customer at the Platform of its acceptance within a reasonable period of time by sending a sales

confirmation to Customer, otherwise the purchase order shall be deemed to have been rejected by Company.

**2.3** When the sales confirmation is sent to Customer, an individual sales/services contract (the "**Individual Contract**") shall be formed and become binding on the Parties. In case of any discrepancy or conflict between the Individual Contract and the General Terms, the Individual Contract shall prevail the General Terms.

### **ARTICLE III Payments**

**3.1** Customer shall pay the Price of the Products: (i) before the shipment; or (ii) in accordance with the instructions notified by Company, in JPY by telegraphic transfer to the bank account designated in writing by Company.

**3.2** Customer's payments shall not be subject to any setoff, counterclaim or deductions for taxes or fees. Company may suspend shipment of the Products until Company confirms full payment of the total amount of the Price of the Products. Such suspension shall not constitute any breach of Company's obligation.

### **ARTICLE IV Delivery**

**4.1** Company shall ship the Products on FOB (as per INCOTERMS 2010), with all freight and insurance premium costs to be paid by Customer unless otherwise agreed in writing between the Parties.

**4.2** All risk of loss and damage to the Products shall pass to Customer upon acceptance of the Products by the carrier for delivery to Customer. The title of the Products shall not pass to Customer until the price of the Products has been fully paid to Company.

### **ARTICLE V Inspection**

**5.1** Promptly upon the receipt of the Products, Customer shall examine the shipment to determine whether any item or items included in the shipment are in short supply, defective, or damaged. Customer shall promptly notify Company in writing of any shortages, defects, or damages which Customer claims existed at the time of delivery. Any and all items of the shipment shall be deemed to have been accepted by Customer with no shortage, defect, or damage at the time of delivery if Company does not receive a written notice by Customer within seven (7) days of Customer's receipt of the Products.

**5.2** If Company receives a written notice with evidence demonstrating shortages, defects, or damages of the Products by Customer within seven (7) days of Customer's receipt of the Products, Company shall replace such Products or refund to Customer the Prices paid for such Products. To the avoidance of doubt, the Japanese drug laws and regulations do not allow Company to accept the return of the Products after the shipment.

**ARTICLE VI**  
**Relationship between Company and Customer**

The relationship created hereby between Company and Customer shall be solely that of seller and buyer, or service provider and service user, as the case may be.

**ARTICLE VII**  
**Representations and Warranties**

Customer represents and warrants to Company the followings:

- (i) It is duly incorporated, registered and validly existing under the laws of its jurisdiction of incorporation;
- (ii) It is a corporation or other equivalent entity engaged in a healthcare/medical industry and not an individual such as a consumer/patient to whom any consumer/patient protection laws apply, and the Individual Contracts are commercial transactions;
- (iii) Its execution, delivery and performance of the General Terms and the Individual Contracts are within its power and have been duly authorized, duly and validly executed, and constitute valid and legally binding obligations enforceable against it in accordance with the terms hereof;
- (iv) Its execution, delivery and performance of the General Terms and the Individual Contracts do not violate or contravene any law, decree, administrative ruling or regulations applicable to them, including but not limited to, any and all regulations regarding medicines, drugs, cosmetics, dietary supplements, chemicals, consumer/patient protections and medical treatments;
- (v) Its execution, delivery and performance of the General Terms and the Individual Contracts does not conflict with, cause a breach of, or constitute a default under any provision of any judgment, injunction, order, decree or material Terms and Conditions or other material instrument binding upon it; and
- (vi) Its representations and warranties for it have been true and correct in all material respects as of the formation date of the Individual Contract.

**ARTICLE VIII**  
**Acknowledgment and No Warranty**

Customer acknowledges that the information on the Platform is not intended or implied to be a substitute for professional medical advice, diagnosis or treatment, and all content, including text, graphics, images and information, contained on or available through the Platform is for commercial information purposes only, and Customer is encouraged to confirm any information obtained from or through the Platform with other sources, and review all information regarding any medical condition or treatment with other medical service providers.

**ARTICLE IX**  
**Limitation of Liability**

**9.1** COMPANY DOES NOT MAKE ANY WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF ANY THIRD-PARTY

RIGHTS; OR ACCURACY, COMPLETENESS, UP-TO-DATENESS OR NON-MISLEADINGNESS OF INFORMATION CONTAINED ON THE PLATFORM.

**9.2** NOTWITHSTANDING ANYTHING ELSE IN THE GENERAL TERMS OR OTHERWISE, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING ANY LOSS OF PROFITS ARISING FROM OR RELATING TO THE GENERAL TERMS AND THE INDIVIDUAL CONTRACTS.

**9.3** COMPANY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THE GENERAL TERMS AND THE INDIVIDUAL CONTRACTS, WHETHER IN CONTRACT, WARRANTY, TORT OR OTHERWISE, SHALL IN ANY EVENT BE LIMITED TO THE PRICE OF THE PRODUCTS PAID BY CUSTOMER ON WHICH LIABILITY IS ASSERTED.

## **ARTICLE X Indemnification**

Notwithstanding any other provision, Customer shall indemnify, defend and hold harmless Company and its representatives, affiliates, officers and employees from and against all liabilities, losses, claims, actions, costs and expenses and disbursements (including attorney's fees), including but not limited to third-party claims for bodily injury, death, or property damage, which arises or is alleged to arise in connection with any acts, omission or breaches of Customer and its representatives, affiliates, officers and employees.

## **ARTICLE XI Confidentiality**

Customer hereto agrees: (a) to hold, and to cause Customer's representatives, officers, employees, agents or subcontractors to hold, in strict confidence the Confidential Information; (b) not to make any use whatsoever at any time of such Confidential Information except as contemplated under the General Terms; and (c) not to divulge any such Confidential Information to any third person, except and to the extent:

- (i) with a prior written approval from Company;
- (ii) to the directors, auditors, employees or officers of itself, providing that they bear the same obligation as set forth under this Article;
- (iii) in the case that such Confidential Information is already available to the public at the time of disclosure by Company;
- (iv) in the case that such Confidential Information becomes available to the public for a reason not attributable to itself after disclosure by Company;
- (v) in the case that such Confidential Information is already duly held by itself at the time of disclosure by Company;
- (vi) in the case that such Confidential Information is obtained by itself on a non-confidential basis from a duly authorized third party after disclosure by Company; or
- (vii) to any governmental authority pursuant to a law, regulation, or decision or order of the court or government agencies.

## **ARTICLE XII Termination**

**12.1** Either Party shall be entitled to forthwith terminate the Individual Contracts by giving a written notice of termination to the other Party:

- (i) If the other Party commits a material breach of its obligation under the General Terms or the Individual Contracts;
- (ii) If the other Party commits any breach of its obligation under the General Terms or the Individual Contracts and does not remedy the breach within fourteen (14) days from the notice;
- (iii) If the other Party becomes insolvent or a petition in bankruptcy or for corporate reorganization or for any similar relief is filed by or against the other Party;
- (iv) If a receiver or trustee is appointed with respect to any part of the assets of the other Party; or
- (v) If the other Party is dissolved, or wound up.

**12.2** Termination or expiration of the Individual Contracts for any reason shall not release either Party from any liability or obligation which has already accrued as of the effective date of such termination or expiration.

## **ARTICLE XIII Miscellaneous**

**13.1** **Assignment.** Neither the Individual Contracts nor any of the rights and obligations created hereunder may be assigned or sublicensed in whole or in part by either Party without the prior written approval of the other Party. An assigning Party shall promptly notify the other Party in writing of any assignment. Any attempted assignment which does not comply with this provision shall be deemed null and void and shall have not force or effect.

**13.2** **Severability and Invalidity.** In the event that any provisions of the General Terms or the Individual Contracts be found to be, in whole or in part, invalid or unenforceable by a court of competent jurisdiction, the validity or enforceability of the remaining provisions under applicable law will not be affected thereby and shall remain binding upon the Parties hereto. Any such invalid or unenforceable provisions shall be substituted by a valid or enforceable provision which, in its essential purpose, comes as close as possible to the invalid or unenforceable provision.

**13.3** **Waivers.** The failure of any Party to enforce or to exercise, at any time or for any period of time, any right or remedy arising out of or under the General Terms or the Individual Contracts does not constitute, and shall not be construed as, a waiver of such right or remedy and shall in no way affect that Party's right to enforce or exercise it at a later time.

**13.4** **Interpretation.** The headings in the General Terms are for ease of reference only and do not affect the substance of any provision. Words denoting the singular include the plural and vice versa.

**13.5** **Force Majeure.** Neither Party shall be liable to the other Party for delay in any performance, or for failure to render any performance under the General Terms when such delay

or failure is directly caused by order or regulations of a governmental authority (whether or not valid), fire, flood, earthquake, Tsunami, strike, riot, war, terrorism, act of Gods, or any other cause or causes beyond reasonable control of such delinquent Party, except that this section shall not apply to any obligation to meet payments outstanding and due under the General Terms or the Individual Contracts.

**13.6**            **Language.**    The General Terms has been produced in the English language and the negotiations relating to the General Terms were conducted in English; any translations are for working purposes only and have no influence on the interpretation of the General Terms.

**13.7**            **Governing Law.**    The validity, interpretation, and performance of the General Terms shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG), but shall be governed by and construed in accordance with the laws of Japan, without regard to its conflict or choice of laws principles.

**13.8**            **Dispute Resolution.**    All disputes, controversies or differences which may arise between the Parties hereto, out of or in relation to or in connection with the General Terms shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Commercial Arbitration Rules of The Japan Commercial Arbitration Association. The language of the arbitration shall be English, unless otherwise agreed to in writing between the Parties.