



FIRST MILK GROUP

TERMS AND CONDITIONS OF PURCHASE

1. INTERPRETATION

1.1 Definitions:

In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or a public holiday) when banks in London and Glasgow are open for business.

Business Hours: the period from 9.00 am to 5.00 pm (GMT/BST) on any Business Day.

Commencement Date: has the meaning set out in clause 2.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.10(a).

Contract: the contract between the Purchaser and the Supplier for the supply of Products and/or the provision of Services in accordance with these Conditions.

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Location: has the meaning set out in clause 3.1.

Delivery Date: the date specified for delivery of Products and/or performance of the Services in the Contract or otherwise agreed in writing between the Purchaser and the Supplier.

Force Majeure Event: has the meaning given to it in clause 12.

Group Company or Group: in relation to a company, that company, its subsidiaries subsidiary undertakings, any company of which it is a subsidiary (its holding company/subsidiary undertaking (its parent undertaking) and any other subsidiaries of any such holding company subsidiary undertakings of any such parent undertaking and each company in a group is a member of the group.

Unless the context requires otherwise, the application of the definition of Group to any company at any time will apply to the company as it is at that time.

holding company and subsidiary: mean a “holding company” and “subsidiary” as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only

of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), by way of security or in connection with the taking of security, or (b) its nominee.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all 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.

Order: the Purchaser's order for the supply of Products or Services, as set out the Purchaser's purchase order.

Products: the products (or any part of them) set out in the Order or the Supplier's Quotation as the case may be.

Purchaser: the person or firm who purchases the Products from the Supplier.

Purchaser Materials: all materials, equipment, documents and other property:

- (a) of the Purchaser which are supplied to the Supplier for the purpose of a Contract;
- (b) of the Supplier which are supplied to the Purchaser for the purpose of a Contract (including pallets, crates, packages, containers and bottles in or upon which Products are delivered in accordance with any Contract); and
- (c) which are produced by the Supplier for the purpose of or relating to the provision of the Services.

Mandatory Policies: the Purchaser's business policies listed in Schedule 1.

Quotation: the Supplier's written quotation for the supply of Products or Services.

Services: the services (or any part of them) set out in the Order or the Supplier's Quotation as the case may be.

Specification: the description or specification for the Products and/or Services including any related plans and drawings that are provided by the Purchaser to the Supplier or that are provided by the Supplier to the Purchaser and accepted by the Purchaser.

Supplier: the person or firm from whom the Purchaser purchases the Products and/or Services.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

1.2 Construction. In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** excludes fax and email.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Purchaser (whose details are set out in the Contract) to purchase Products and/or Services from the Supplier and the Supplier's Quotation constitutes an offer by the Supplier to sell Products and/or Services to the Purchaser.
- 2.2 Each Order, each request for a Supplier Quotation and each Supplier Quotation shall be deemed to incorporate these terms and conditions.
- 2.3 The Contract shall come into existence when the Supplier Quotation is accepted in writing by the Purchaser or when the Supplier issues written acceptance of the Order (**Commencement Date**).
- 2.4 The Contract constitutes the entire agreement between the parties. These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 2.5 All of these Conditions shall apply to the supply of both Products and Services except where the application to one or the other is specified.

3. DELIVERY OF PRODUCTS AND SERVICES

- 3.1 The Supplier shall deliver the Products to or Services at the Purchaser's premises or such other locations as are notified at the Commencement Date or such other location as may be advised by the Purchaser before delivery (**Delivery Location**) within 3 Business Days (or such other period as the Purchaser shall specify) of the Purchaser notifying the Supplier that the Products are ready or that they are ready to commence provision of the Services. The Products shall be accompanied by a delivery note in such form and containing such information as the Purchaser shall require.
- 3.2 Delivery of Products shall be completed on the completion of unloading of the Products at the Delivery Location, following completion of the Services or, where commissioning or testing is required, on successful completion of such commissioning or testing.

- 3.3 Any dates quoted for delivery of Products and/or Services are of the essence. If the Products and/or Services are not delivered on the specified Delivery Date, then, without limiting any other right or remedy the Purchaser may have, the Purchaser may:
- (a) refuse to take any subsequent attempted delivery of the Products and/or Services; and/or
 - (b) terminate a Contract with immediate effect; and/or
 - (c) obtain substitute products and/or services from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Purchaser in obtaining such substitute products and/or services; and/or
 - (d) require a refund from the Supplier of sums paid in advance for Products or Services that have not been delivered or provided; and/or
 - (e) claim damages for any other costs, expenses or losses incurred by the Purchaser which are in any way attributable to the Supplier's failure to deliver the Products and/or Services on the Delivery Date.
- 3.4 The Purchaser may change the dates for delivery at any time before delivery of the Products and/or Services has been completed or reduce the quantity of the Products or scope of the Services at any time before delivery. Forecasts provided by the Purchaser to the Supplier shall be estimates only and shall not be binding on the Purchaser.
- 3.5 Unless the Contract specifies otherwise the Purchaser is not obliged to accept delivery by instalments. Where the Contract specifies that the Products are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Purchaser to the remedies set out in clause 3.3 and clause 6.3.
- 3.6 Title to and risk in the Products and/or Services shall pass to the Purchaser on completion of delivery.

4. PRICE AND PAYMENT

- 4.1 The price for Products and/or Services shall be the price set out in the Contract.
- 4.2 The Supplier shall invoice the Purchaser on or at any time after completion of delivery.
- 4.3 The Purchaser shall pay each invoice submitted by the Supplier within 75 days of the date of the invoice unless the parties otherwise agree in writing.
- 4.4 All amounts payable by the Purchaser under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**) which shall be payable at the same time as payment is due for the supply of the Products and/or Services.
- 4.5 If the Purchaser fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), in the absence of any dispute as to whether or not such payment

is due or the amount thereof which may be due, or if the parties agree that payment will not be made by the Due Date, the Supplier shall have the right to charge interest on the overdue amount at the rate of 2 per cent per annum above the then current Barclays Bank PLC's base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment.

- 4.6 The Purchaser may, without limiting its other rights or remedies, set off any amount owing by it to the Supplier against any amount payable by the Supplier or any Group Company of the Supplier to the Purchaser or any Group Company of the Purchaser.

5. QUALITY OF PRODUCTS AND SERVICES

- 5.1 The Supplier warrants that the Products and/or the Services (including all Deliverables, products and materials supplied and used in the Services or transferred to the Purchaser under or in connection with a Contract) shall:

- (a) conform in all respects with their description, any applicable Specification and any samples issued by the Supplier;
- (b) conform in all respects with the Contract;
- (c) comply with all applicable statutory and regulatory requirements;
- (d) be free from defects in design, material and workmanship;
- (e) conform to all samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues brochures or website;
- (f) in the case of the Products, be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Purchaser; and
- (g) in the case of the Services, be provided with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade.

- 5.2 The Supplier shall in connection with the supply of the Products and delivery of the Services:

- (a) ensure that at all times it has and maintains in force all licences, permissions, authorisations, consents and permits needed to carry out its obligations under the Contract;
- (b) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (c) provide all equipment, tools and vehicles and such other items as are required to provide the Products and Services;
- (d) comply and ensure that its employees and sub-contractors comply with all applicable laws, enactments, orders, regulations and other instruments relating to health and safety and with the Purchaser's Mandatory Policies (including, but not limited, to any health and safety regulations or other security requirements that apply at the

Purchaser's premises). The Supplier shall (i) upon request, certify to the Purchaser in writing and signed by an officer of the Supplier, its compliance with the Purchaser's Mandatory Policies and (ii) provide the Purchaser with such information as the Purchaser may reasonably request in respect of the Supplier's compliance with the Purchaser's Mandatory Policies;

- (e) ensure that the Products are properly packed and secured in such manner as to enable them to reach their destination in good condition.
- (f) comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Products and/or provision of the Services (including, for the avoidance of doubt, legal requirements relating to the reporting of carbon emissions);
- (g) inform the Purchaser as soon as it becomes aware of or reasonably ought to have known of (i) any actual or potential breach by its employees or sub-contractors of anti-bribery or modern slavery laws, and (ii) any changes in such applicable laws, enactments, orders, regulations and other instruments which may impact the delivery of the Products and/or provision of the Services;
- (h) not do or omit to do anything which may cause the Purchaser to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Purchaser may rely or act on the Services;
- (i) hold the Purchaser's Materials in safe custody at its own risk, maintain the Purchase Materials in good condition until returned to the Purchaser, and not dispose of or use the Purchaser Materials other than in accordance with the Purchaser's written instructions or authorisation. The Supplier shall pay the Purchaser for the cost of replacement of Purchaser Materials which have not been returned to the Purchaser within 3 Business Days of such time as the Purchaser shall have notified the Supplier requesting such return or which have been returned and are not in the opinion of the Purchaser in a fit state or condition for re-use by the Purchaser;
- (j) have in place and maintain a business continuity plan (compliant with good industry practice) that addresses issues that may impact on the delivery of the Products and/or provision of the Services;
- (k) provide to the Purchaser at such times and in such manner as the Purchaser may specify (i) a summary of the carbon emissions generated by the Supplier and (ii) information relating to the environmental implications of the Supplier's delivery of the Products and/or provision of the Services; and
- (l) co-operate with the Purchaser in all matters relating to the Products and Services and comply with all instructions of the Purchaser.

5.3 The Purchaser shall have the right to enter the Supplier's premises during Business Hours on reasonable notice to the Supplier (except in emergency) to:

- (a) where applicable, to inspect the manufacturing facilities and the equipment used by the Supplier in the manufacture of Products or performance of the Services; and
 - (b) inspect and take samples of the raw materials, the packaging and the Products.
- 5.4 The Supplier shall remain fully responsible for the Products and/or Services despite any inspection or testing undertaken in accordance with clause 5.3 and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 5.5 If the Purchaser considers that the Products and/or Services are not or are not likely to be as warranted under clause 5.1, the Purchaser shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure that the Products are or will be as warranted. The Purchaser shall have the right to re-conduct inspections and take further samples after the Supplier has carried out its remedial actions.
- 5.6 The Supplier acknowledges and agrees that the Products and/or Services are supplied to the Purchaser but may be used by the Purchaser or any other Group Company of the Purchaser or be comprised in any products or services supplied to or by any such Group Company. Accordingly, the warranties contained in clause 5.1 shall be owed by the Supplier to the Purchaser and each Group Company of the Purchaser notwithstanding that they may not be the Purchaser.

6. ACCEPTANCE AND DEFECTIVE PRODUCTS

- 6.1 The Purchaser shall not be deemed to have accepted any Products and/or Services until it has had a reasonable time to inspect them following Delivery, or, in the case of a latent defect in the Products and/or Services, until a reasonable time after the latent defect has become apparent.
- 6.2 Where provided for in a Contract, for the purpose of clause 6.1, acceptance tests shall be carried out and the Purchaser shall not be deemed to have accepted any Products and/or Services until the relevant Products and/or Services have passed such acceptance tests.
- 6.3 If any Products and/or Services delivered to the Purchaser do not comply with clause 5.1, or are otherwise not in conformity with the terms of a Contract, then, without limiting any other right or remedy that the Purchaser may have, the Purchaser may reject those Products and/or Services and:
 - (a) terminate the Contract with immediate effect; and/or
 - (b) require the Supplier to repair or replace the rejected Products and/or provide repeat performance of the Services at the Supplier's risk and expense within five Business Days of being requested to do so; and/or
 - (c) require the Supplier to repay the price of the rejected Products in full (whether or not the Purchaser has previously required the Supplier to repair or replace the rejected Products and/or Services); and/or

- (d) recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods, services or deliverables from a third party; and/or
 - (e) claim damages for any other costs, expenses, losses or liabilities incurred by the Purchaser arising from the Supplier's delivery of Products and/or Services that are not in conformity with the terms of a Contract.
- 6.4 The Purchaser's rights and remedies under clause 6 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into a Contract by the Sale of Goods Act 1979.
- 6.5 The terms of clauses 5 and 6 shall apply to any substituted or remedial services or repaired or replacement products supplied by the Supplier.
- 6.6 If the Supplier fails to promptly repair or replace rejected Products and/or Services in accordance with clause 6.3(b), the Purchaser may, without affecting its rights under clause 6.3(c), obtain substitute products and/or services from a third party supplier, or have the rejected Products and/or Services repaired by a third party, and the Supplier shall reimburse the Purchaser for the costs it incurs in doing so.

7. INSURANCE

- 7.1 The Supplier shall before delivery and for a period of one year thereafter maintain in force the following insurance policies with reputable insurance companies:
 - (a) public liability insurance for not less than £1,000,000 per claim; and
 - (b) product liability insurance for not less than £1,000,000 for claims arising from any single event and not less than £10,000,000 million in aggregate for all claims arising in any year; and
 - (c) where applicable to the Services professional indemnity insurance for not less than £1,000,000 per claim.
- 7.2 On the Purchaser's written request, the Supplier shall provide the Purchaser with copies of the insurance policy certificates and details of the cover provided.
- 7.3 The Supplier shall ensure that any subcontractors also maintain adequate insurance having regard to the obligations under the Contract which they are contracted to fulfil.
- 7.4 The Supplier shall:
 - (a) do nothing to invalidate any insurance policy or to prejudice the Purchaser's entitlement under it; and
 - (b) notify the Purchaser if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.

7.5 The Supplier's liabilities under a Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in clause 7.1.

8. INDEMNITY

8.1 The Supplier shall indemnify the Purchaser against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Purchaser arising out of or in connection with:

- (a) any claim made against the Purchaser for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Products and/or receipt, use or supply of the Services and Deliverables (excluding the Purchaser Materials);
- (b) any claim made against the Purchaser by a third party arising out of, or in connection with, the supply of the Products and/or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
- (c) any claim made against the Purchaser by a third party for death, personal injury or damage to property arising out of, or in connection with, the supply of defective Products, Deliverables and/or Services, to the extent that the defect in the Products and/or Services is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.

8.2 Nothing in this clause shall restrict or limit the Purchaser's general obligation at law to mitigate a loss which it may suffer or incur as a result of a matter that may give rise to a claim under this indemnity.

8.3 This clause 8 shall survive termination of the Contract.

9. TERMINATION

9.1 Without limiting its other rights or remedies, each party may terminate a Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under a Contract and (if such breach is remediable) fails to remedy that breach within 21 days after receipt of notice in writing of the breach;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(b) to clause 9.1(l) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

9.2 On termination of a Contract for any reason:

- (a) the Supplier shall immediately deliver to the Purchaser all Deliverables whether or not then complete and return all of the Purchaser Materials. If the Supplier fails to do so, then the Purchaser may enter the Supplier's premises and take possession of them. Until they have been returned or delivered the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- (b) the accrued rights and remedies of the parties as at termination or expiry shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Purchaser.
- 10.2 The Supplier acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Supplier's use of any such Intellectual Property Rights is conditional on the Purchaser obtaining a written licence from the relevant licensor on such terms as will entitle the Purchaser to use such rights to the Supplier.
- 10.3 All Purchaser Materials are the exclusive property of the Purchaser.

11. PURCHASER MATERIALS

The Supplier shall keep and maintain all Purchaser Materials in safe custody at its own risk, maintain the Purchaser Materials in good condition until returned to the Supplier, and not dispose of or use the Purchaser Materials other than in accordance with the Supplier's written instructions or authorisation at the cost of the Supplier. The Supplier shall pay the Purchaser for the cost of replacement of Purchaser Materials which have not been returned to the Purchaser within 3 Business Days of such time as the Purchaser shall have notified the Supplier requesting such return or which have been returned and are not in the opinion of the Purchaser in a fit state or condition for re-use by the Purchaser.

12. FORCE MAJEURE

- 12.1 For the purposes of a Contract, **Force Majeure Event** means an event beyond the reasonable control of either party including but not limited to strikes, lock-outs or other labour or industrial disputes (other than in each case by the party seeking to rely on this clause or companies in the same group as that party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, or storm.
- 12.2 Neither party shall be liable to the other party as a result of any delay or failure to perform its obligations under a Contract as a result of a Force Majeure Event.
- 12.3 If the Force Majeure Event prevents a party from providing or receiving any of the Products and/or Services for more than 4 weeks, the other party shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the other party.

13. CONFIDENTIALITY

- 13.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, Purchasers, client or suppliers of the other party, including all technical or commercial know-how, specifications, inventions, processes or initiatives, except as permitted by clause 13.2.
- 13.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 13.4 This clause 13 shall survive termination of the Contract.

14. DATA PROTECTION

- 14.1 The following definition apply in this clause 14:
- (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
 - (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*)
 - (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.
- 14.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This *clause 14* is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 14.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Purchaser is the Controller and the Supplier is the Processor.
- 14.4 Without prejudice to the generality of clause 14.2, the Purchaser will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract.

14.5 Without prejudice to the generality of clause 14.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

- (a) process that Personal Data only on the documented written instructions of the Purchaser unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Purchaser of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Purchaser;
- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Purchaser, to protect against organisation or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the organisation or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, organisational and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of the Purchaser has been obtained and the following conditions are fulfilled:
 - (i) the Purchaser or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Purchaser with respect to the processing of the Personal Data;
- (e) assist the Purchaser, at the Purchaser's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Purchaser without undue delay on becoming aware of a Personal Data Breach;

- (g) at the written direction of the Purchaser, delete or return Personal Data and copies thereof to the Purchaser on termination of the Contract unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 14 and allow for audits by the Purchaser or the Purchaser's designated auditor and immediately inform the Purchaser if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

14.6 The Purchaser does not consent to the Supplier appointing any third-party processor of Personal Data under the Contract without its prior written consent. The Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.6.

15. GENERAL

15.1 The Supplier shall:

- (a) comply in all respects with the Bribery Act 2010 and with any law of similar effect from time to time in force;
- (b) indemnify the Purchaser against any liabilities incurred by the Purchaser as a result of the Supplier breaching any such law; and
- (c) comply with any reasonable requests from the Purchaser in relation to its compliance with the Bribery Act 2010.

15.2 The Supplier shall, if the Purchaser so requests, become a member of the contractor management scheme operated by Reset, or such other similar scheme in which the Purchaser participates from time to time.

15.3 Dispute Resolution

- (a) If any dispute arises out of the Contract the parties will attempt to settle it by negotiation within 90 days of the dispute arising, which failing the parties shall attempt to settle it by mediation in accordance with the Centre for Dispute Resolution Model Mediation procedure.
- (b) Subject to clause 15.3(c) below, no party may commence any court proceedings in relation to any dispute arising from a Contract until they have attempted to settle it by mediation and that mediation has terminated.
- (c) Nothing in this clause 15.3 shall prevent the parties from seeking immediate preventative relief, such as an interdict or injunction, at any time.

15.4 Assignment and other dealings

- (a) The Purchaser may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may sub-contract or delegate in any manner any or all of its obligations under the Contract to any third party.
- (b) The Supplier shall not, without the prior written consent of the Purchaser, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.5 Notices

- (a) Any notice or other communication required to be given to a party under or in connection with a Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such address or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- (c) This clause 15.5 shall not apply to the service of any proceedings or other documents in any legal action.

15.6 Waiver and cumulative remedies

- (a) A waiver of any right or remedy under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any right or remedy in respect of a subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

15.7 Severance

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15.8 No partnership

- (a) Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

15.9 Third parties

- (a) Any Group Company of the Purchaser shall have rights under a Contract for the purposes of enforcing or otherwise seeking a remedy for breach of warranty under

clause 5.6 or otherwise. Subject thereto a person who is not a party to the Contract shall not have any rights under or in connection with it.

15.10 Variation

- (a) The Purchaser shall be entitled to delete, alter or add to these terms at any time and such revised terms shall be posted to the last known address of the Supplier by ordinary pre-paid post, published on the Purchaser's website or otherwise are made available for inspection at the registered office of the Purchaser during Business Hours following upon such variation but no such deletion, alteration or addition shall have effect in relation to a Contract already concluded with the Supplier prior to the date of its introduction unless the parties otherwise agree in writing.

15.11 Governing law and jurisdiction

- (a) The Contract, these Conditions and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract, its subject matter or formation or the Conditions.

Schedule 1

Mandatory Policies

- Code of Conduct for Suppliers to First Milk
- Ethical Trading Policy
- Anti-bribery and Corruption Policy
- Modern Slavery Policy
- Equal Opportunities Policy
- Dignity at Work Policy
- SHE Policy
- Adverse Weather Procedure
- Privacy Policy

Copies of each policy are available on request and may be updated by the Purchaser from time to time