



MULLER UK & IRELAND GROUP LLP (TRADING AS MÜLLER MILK & INGREDIENTS)

STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions and rules of interpretation shall apply unless the context otherwise requires:

“**Buyer**” means the person, firm or company who places an Order for Products with Müller;

“**Code**” means The Groceries Supply Code of Practice as set out in The Groceries (Supply Chain Practices) Market Investigation Order 2009 and/or The Consumer Protection Act 2007 (Grocery Goods Undertakings) Regulations 2016 (as applicable);

“**Collection Point**” means the place where delivery of the Products is to take place under **condition 5.3**;

“**Conditions**” means the standard terms and conditions of sale set out in this document and includes any Primary Terms, Sales Order Confirmation or special conditions agreed in writing by the Buyer and Müller, as amended from time to time in accordance with **condition 2.2**;

“**Contract**” means an Order for the Products which, if accepted by Müller, will together with the Conditions, form the contract;

“**Delivery Point**” means the place where delivery of the Products is to take place under **condition 5.2**;

“**Groceries**”/“**grocery goods**” has the meaning set out in the Code;

“**Group**” means all entities in which Mr Theo Müller (or his successors in title) has a 50% or greater interest either directly or indirectly;

“**Müller**” means Muller UK & Ireland Group LLP (trading as Müller Milk & Ingredients), a limited liability partnership registered in England under Partnership Number OC384928 whose registered office is at Tern Valley Business Park, Shrewsbury Road, Market Drayton, Shropshire, TF9 3SQ or, if different, the member of the Group which has or will enter into the Contract with Buyer;

“**Order**” means an order placed by the Buyer on Müller for the supply of Products whether by way of electronic data interchange (“EDI”) or otherwise (as amended from time to time in accordance with these Conditions);

“**Primary Terms**” means the written terms and conditions contained in the document entitled “Primary Terms” and attached hereto (if applicable);

“**Product Recall**” means the recall or withdrawal of Products howsoever caused which are in the direct possession or control of the Buyer;

“**Products**” means the products (or any part of them) which are the subject of an Order;

“**Sales Order Confirmation**” means the written confirmation that Müller accepts the Order placed by the Buyer for the Products subject to these Conditions; and

“**Working Day**” means a day other than a Saturday, Sunday or public holiday when banks in London are open for business.

1.2 Reference to any statute or statutory provision includes a reference to such statute or statutory provision as amended, extended or re-enacted from time to time.

2. APPLICATION OF TERMS

2.1 Subject to any variation under **condition 2.2**, all quotations, offers and tenders made and all Orders accepted by Müller are subject to these Conditions to the exclusion of all other terms and conditions that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing (including, without limitation, any terms, conditions or warranties which the Buyer purports to apply under any Order, confirmation, specification or other document and any failure to challenge such terms, conditions or warranties shall not imply acceptance by Müller). If there is any conflict between Müller’s quotation, or Order acknowledgement or Sales Order Confirmation and these Conditions, such other terms in Müller’s quotation or Order

acknowledgement or Sales Order Confirmation shall prevail (to the extent of the conflict or inconsistency only).

2.2 Any variation to these Conditions and any representations about the Products shall have no effect unless expressly agreed in writing and signed by an authorised representative of Müller.

2.3 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges and agrees that: (a) it has not relied on any statement, promise or representation made or given by or on behalf of Müller which is not set out in the Contract; and (b) it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. Nothing in this **condition 2.3** shall exclude or limit Müller’s liability for fraudulent misrepresentation.

2.4 Where a Contract is for the supply of Groceries or grocery goods the Code shall apply and be incorporated into the Contract. In the event of any conflict between the terms of the Code and the Contract, the Code shall prevail to the extent of the conflict or inconsistency only.

3. ORDERS

3.1 Each Order and/or acceptance of a quotation for Products by the Buyer from Müller shall be deemed to be an offer by the Buyer to purchase Products subject to these Conditions.

3.2 The Buyer must ensure that the terms of its Order and any applicable specification are complete and accurate and in accordance with such lead times as the parties agree from time to time.

3.3 No Order placed by the Buyer or acceptance of a quotation from Müller shall be deemed to be accepted by and binding on Müller until a written acknowledgement of Order or Sales Order Confirmation is issued by Müller or (if earlier) Müller delivers the Products to the Buyer at which point a Contract will come into existence.

3.4 Prices are quoted by Müller on the basis of the exclusions and limitations of liability set out in these Conditions. If the Buyer wishes Müller to consider accepting a higher limit of liability, the Buyer shall submit a written request to Müller and Müller may then quote a revised price taking account of the increased risks accepted by Müller and any increased insurance premium to be borne by Müller. Müller shall not be under any obligation to agree to any higher limitation of liability requested by the Buyer.

3.5 A quotation for the Products given by Müller shall not constitute an offer. A quotation from Müller is available for acceptance for a maximum period of 7 (seven) days from its date and may be withdrawn by Müller at any time by written or oral notice.

3.6 The Buyer shall send Müller non-binding indicative forecasts of its requirements for the Products from time to time and on Müller’s reasonable request.

4. DESCRIPTION

4.1 The quantity and description of the Products shall be as set out in Müller’s quotation or acknowledgement of Order or Sales Order Confirmation.

4.2 All samples, drawings, descriptive matter, specifications and advertising issued by Müller and any descriptions or illustrations contained in Müller’s catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract nor have any contractual force and this is not a sale by sample.

5. DELIVERY OF THE PRODUCTS

5.1 The Buyer shall be responsible for ensuring the accuracy of the terms of any Order it submits or delivery note or related invoice for Products it accepts.

5.2 Unless otherwise agreed in writing by Müller, delivery of the Products shall take place at the Buyer’s premises or other premises named in the Order or Sales Order Confirmation.

5.3 Subject to **condition 5.2**, if the Buyer wishes to collect the Products and such collection has been agreed in writing by

Müller the Buyer will collect the Products from and delivery of the Products shall take place at Müller’s premises or other premises named in the Order or Sales Order Confirmation when the Buyer first begins to transfer the Products into the Buyer’s transportation carrier.

5.4 Any dates and times specified by Müller for delivery of the Products are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery of the Products shall be within a reasonable time. Müller shall have no liability whatsoever for any delay in delivery of the Products howsoever caused. The Products may be delivered in advance of the estimated delivery date upon giving reasonable notice to the Buyer.

5.5 In the case of collection, the Buyer will collect the Products at the time specified to the Buyer by Müller and time of collection is of the essence.

5.6 Müller may deliver the Products in instalments in which case each instalment shall be treated as a separate Contract governed by these Conditions. No delay in the delivery of any instalment of Products or any defect therein shall entitle the Buyer to cancel any other instalment.

5.7 Müller will endeavour to comply with any reasonable requests by the Buyer for postponement of delivery or collection (as applicable) of the Products but shall be under no obligation to do so. Where delivery or collection of the Products is postponed, otherwise than due to default by Müller, then without prejudice to all other rights and remedies available to Müller, the Buyer shall pay all costs and expenses incurred by Müller as a result of any such delays.

5.8 The Buyer shall be responsible for obtaining all export and import licences (including, without limitation, payment of any duties) for the Products and shall be responsible for any delays due to such sums not being available.

5.9 If for any reason the Buyer fails to accept delivery of or collect any of the Products when they are ready for delivery and/or collection (as applicable), or Müller is unable to deliver the Products on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations, risk in the Products shall pass to the Buyer at the point the Products are ready for delivery and/or collection or would have been ready in the ordinary course but for the Buyer and Müller may either:-

- (a) store the Products until delivery and/or collection (as applicable), whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or
- (b) sell the Products at the best price reasonably obtainable; or
- (c) otherwise dispose of the Products at the Buyer’s cost.

5.10 The Buyer shall provide at the Delivery Point or the Collection Point (as applicable) and at its expense adequate and appropriate equipment and manual labour for unloading, loading and transporting the Products (as applicable). For the avoidance of doubt the Buyer shall bear the risk of all loss, damage or deterioration of Products during unloading, loading and transportation (as applicable).

5.11 Pallets, trolleys and other returnable containers remain the property of Müller and must be returned undamaged or replaced if damaged and sent to Müller at the Buyer’s expense at such time as agreed in writing between the parties, provided that if the Buyer and Müller are both members of either the CHEP UK Limited pallet exchange scheme and/or of the Dairy UK Roll Container Repatriation Scheme then in relation to

- the pallets or trolleys as the case may be the parties shall act in accordance with that scheme.
- 5.12 In the case of collection of the Products by the Buyer, the Buyer and/or its employees and contractors will comply with **condition 21** in respect of the Collection Point.
- 6. NON-DELIVERY**
- 6.1 The quantity of any consignment of Products as recorded by Müller upon despatch or collection from Müller's place of business or that of any third party, contractor or sub-contractor acting on behalf of Müller shall be conclusive evidence of the quantity received by the Buyer on delivery or collection (as applicable) unless the Buyer can provide conclusive evidence to the contrary.
- 6.2 Müller shall not be liable for any non-delivery of Products, non-availability of Products or shortages in Products (howsoever caused) unless written notice is given by the Buyer to Müller within 5 (five) Working Days of the date when the Products would, in the ordinary course of events, have been received.
- 6.3 Any liability of Müller for shortages in delivery, non-availability or non-delivery of the Products shall be solely limited to replacing the shortage of Products or the non-available or non-delivered Products within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such shortage of Products or non-available or non-delivered Products.
- 7. RISK & TITLE**
- 7.1 The risk of loss or damage or deterioration to the Products shall pass to the Buyer at the time of delivery as set out in **condition 5.2, condition 5.3, condition 5.9 and condition 5.10** and the Buyer is responsible for insuring the Products with a reputable insurer from the point at which risk passes to the Buyer, for their full value against its liabilities pursuant to these Conditions or any supply contract, to the satisfaction of Müller and shall produce evidence of such insurance upon request of Müller.
- 7.2 Title to the Products shall not pass to the Buyer until the earlier of:
- (a) Müller receiving payment in full (in cash or cleared funds) for the Products, together with all monies owed to Müller pursuant to any other contractual arrangement between the parties, in which case title to the Products shall pass at the time of payment of all such sums; and
- (b) the Buyer reselling the Products, in which case title to the Products shall pass to the Buyer at the time specified in **condition 7.3**.
- 7.3 The Buyer may resell or use the Products in the ordinary course of its business (but not otherwise) before Müller receives payment for the Products. However, if the Buyer resells the Products before that time:
- (a) it does so as principal and not as Müller's agent; and
- (b) title to the Products shall pass from Müller to the Buyer immediately before the time at which resale by the Buyer occurs.
- 7.4 Müller shall not be liable for any loss of any kind to the Buyer arising from any damage to the Products occurring after the risk has passed to the Buyer however caused, nor shall any liability of the Buyer to Müller be diminished or extinguished by reason of such loss.
- 7.5 Müller may at any time inspect the Products and may recover the Products in respect of which title has not passed to the Buyer or any such Products incorporated in other products at any time and the Buyer irrevocably licenses Müller, its officers, agents or authorised representatives to enter upon any premises where the Products or other products are stored or where they are reasonably thought to be stored and repossess the same with or without vehicles for the purpose of satisfying itself that **condition 7.6** is being complied with or recovering Products for which title has not passed to the Buyer.
- 7.6 Until such time as the title to the Products has passed to the Buyer, the Buyer shall maintain the Products in good condition and store the Products or any products incorporating such Products separately from its own goods or those of any other person and in a manner which makes them readily identifiable as Müller's property.
- 8. PRICE**
- 8.1 Unless otherwise agreed by Müller in writing, the price for the Products shall be the price set out in the Primary Terms or Sales Order Confirmation or as otherwise notified by Müller to the Buyer in writing from time to time.
- 8.2 Unless agreed otherwise in writing by Müller, the price for the Products shall be exclusive of any value added tax or any similar taxes, import duties or other local taxes and all costs or charges in relation to delivery, packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Products.
- 9. PAYMENT**
- 9.1 Müller shall be entitled to submit its invoice with its delivery advice note, or at any time after delivery or collection (as applicable) except where delivery or collection has been postponed at the request of, or by the default of the Buyer, in which case Müller may submit its invoice at any time after the Products are ready for delivery or collection or would have been ready in the ordinary course but for the Buyer.
- 9.2 Where Products are delivered by instalments, Müller may invoice each instalment separately and the Buyer shall pay in accordance with these Conditions.
- 9.3 Subject to **condition 9.4**, unless otherwise agreed in writing the Buyer shall pay each invoice by BACS transfer in cleared funds in pounds sterling within 28 (twenty eight) days of the date of invoice. The time for payment shall be of the essence.
- 9.4 No disputes arising under the Contract nor any delays (other than delays acknowledged in writing by Müller) shall interfere with prompt payment in full by the Buyer.
- 9.5 All payments payable to Müller under the Contract shall become due immediately on its termination despite any other provision.
- 9.6 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless otherwise agreed in writing and signed by an authorised person of Müller or where the Buyer has a valid court order requiring an amount equal to such deduction to be paid by Müller to the Buyer. No payment shall be deemed to have been received until Müller has received cleared funds.
- 9.7 If the Buyer fails to pay any part of the price of the Products by the due date Müller shall be entitled, without prejudice to any other right or remedy, to do all or any of the following:
- (a) to treat such failure as a repudiation of the whole Contract by the Buyer and to recover damages for such breach of Contract;
- (b) to suspend any or all further deliveries and suspend any further production (including, without limitation, suspending any procurement activities related to the Products) under the Contract and under any contract or contracts in existence between Müller and the Buyer without notice;
- (c) to serve notice on the Buyer requiring immediate payment for all Products supplied by Müller under this Contract and all other contracts with the Buyer whether or not payment is due;
- (d) to charge interest on any amount outstanding from the due date for payment at the annual rate of 4% (four percent) above the base lending rate from time to time of National Westminster Bank Plc. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 9.8 Müller may, without prejudice to any other right or remedy, set off any amount owed to it and/or any Group company against any amounts payable by it and/or any Group company under the Contract and/or any other contract in force between the parties.
- 10. RE SALE OF PRODUCTS**
- 10.1 It shall be the responsibility of the Buyer to ensure that the:
- (a) Products are rotated so that the oldest stocks of Products are sold first;
- (b) Products resold, remain in the containers in which they are supplied by Müller and all labels, names, reference marks and numbers are not removed, altered or covered at any time; and
- (c) Products are resold only from premises suitable for their storage and, if applicable, display and sale.
- 10.2 Müller shall not be liable for any loss of any kind arising from the Buyer's failure to fulfil its obligations under **condition 10.1**.
- 10.3 Müller will not give the Buyer credit for:-
- (a) any Products delivered before the "best before date" (or "use by date", as appropriate) on the grounds that the "best before date" ("or use by date", as appropriate) of those Products has subsequently passed or is approaching; and/or
- (b) any Products which have been tampered with, price marked or similarly disfigured.
- 10.4 The Buyer shall not remove any plaque or other label affixed to the Products referring any user thereof to Müller's Product information (statutorily required or otherwise).
- 10.5 If any item comprised in the Products is resold by the Buyer, the Buyer shall bring to the attention of its purchaser all Müller's instructions and / or recommendations for use packed by Müller with the Products or which Müller has otherwise notified to the Buyer.
- 11. QUALITY**
- 11.1 Müller warrants that (subject to the other provisions of these Conditions) upon delivery the Products shall be fit for human consumption and of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 11.2 If the Buyer suspects that the Products do not conform with the warranty in **condition 11.1**, the Buyer must retain for inspection by Müller all such Products.
- 11.3 Müller shall not be liable for a breach of the warranty in **condition 11.1** unless:-
- (a) the Buyer gives written notice to Müller of the defect in the Products as soon as reasonably practicable, and, if the defect in the Product is as a result of damage in transit by the carrier, within 48 hours of the time of delivery or collection of the Product and the rejection report is signed by the Buyer setting out full and accurate details of any defects. For the avoidance of doubt, it is hereby acknowledged and agreed that no right of rejection shall arise in respect of Products that are delivered in all material respects in accordance with the Müller specification or any specification amended by Müller to comply with any applicable statutory requirements; and
- (b) Müller is given a reasonable opportunity after receiving the notice of examining such Products and the Buyer (if asked to do so by Müller) returns such Products to Müller's place of business at Müller's cost (subject to such costs being reasonable) for the examination to take place there.
- 11.4 Müller shall not be liable for a breach of the warranty in **condition 11.1** if:-
- (a) the Buyer makes any further use of such Products after giving notice in accordance with **condition 11.3**; or
- (b) the defect arises because the Buyer failed to follow Müller's oral or written instructions as to the storage and use of the Products or (if there are none) good trade practice; or
- (c) the Buyer alters or repairs such Products without the written consent of Müller; or
- (d) the Products are unsuitable for mixing with other products or substances.
- 11.5 Subject to **condition 11.3** and **condition 11.4**, if any of the Products do not conform with the warranty in **condition 11.1** Müller shall at its option:-
- (a) repair or replace such Products (or the defective part); or
- (b) refund the price of such Products at the pro rata Contract rate, provided that, if Müller so requests, the Buyer shall, at Müller's expense, retain or return the Products or the part of such Products which are defective to Müller; or
- (c) require the Buyer to take such steps as Müller considers necessary to make the Products conform with such warranty; or
- (d) pay the Buyer's reasonable and proven administrative costs and expenses incurred in respect of Products which do not conform with such warranty.

- 11.6 If Müller complies with **condition 11.5** it shall have no further liability for a breach of the warranty in **condition 11.1** in respect of such Products.
- 11.7 These Conditions shall apply to any repaired or replacement Products supplied by Müller.
- 12. PRODUCT RECALL AND COMPLAINTS**
- 12.1 In the unlikely event of a Product Recall, and if required by Müller, the Buyer will enforce Müller's procedures (as notified to the Buyer) covering Product Recall, and will cooperate with Müller to ensure that the Product Recall is dealt with promptly and effectively.
- 12.2 The Buyer will immediately report to Müller any defect or possible defect in the Products which the Buyer should reasonably be aware of, and which, if applicable, could require a Product Recall.
- 12.3 Where Müller initiates a Product Recall, it will, where applicable, reimburse the Buyer for its reasonable and proven administrative costs and expenses incurred in administering a Product Recall campaign relating to the Products.
- 12.4 Where the Buyer initiates a Product Recall, it will reimburse Müller for all costs, expenses and losses related to the Product Recall.
- 12.5 Where Products are to be recalled as a consequence of a Product Recall the Buyer shall return all recalled Products in the Buyer's possession to Müller within 5 (five) Working Days, or where requested by Müller: i) retain the Products for inspection by Müller; or ii) destroy the recalled Products and provide a certificate of destruction.
- 12.6 Except to the extent required by law and without prejudice to **condition 13**, Müller shall not be liable for any further costs or charges as a consequence of the Product Recall.
- 12.7 The Buyer shall not publish any notices or press releases associated with a Product Recall, without receiving Müller's prior written consent.
- 12.8 The Buyer shall maintain a proper and efficient procedure for reporting and dealing with consumer complaints but shall not settle any such complaints or otherwise compromise the position of Müller in respect thereto without Müller's prior written consent. Full details of all such complaints must be referred to Müller forthwith upon notification together with the packaging and/ or batch code of the relevant Products without which no complaint shall be considered.
- 13. MÜLLER'S LIABILITY**
- 13.1 Subject to **condition 5, condition 6, condition 10, condition 11 and condition 12**, the following provisions in this **condition 13** set out the entire financial liability of Müller (including, without limitation, any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- (a) any breach of these Conditions;
- (b) any use made or resale by the Buyer of any of the Products, or of any product incorporating any of the Products; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 13.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 13.3 Nothing in these Conditions excludes or limits the liability of Müller:
- (a) for death or personal injury caused by Müller's negligence;
- (b) for defective products under the Consumer Protection Act 1987;
- (c) for any matter which it would be illegal for Müller to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.
- 13.4 Notwithstanding any other provision of these Conditions but without prejudice to **condition 6.3, condition 11.5, condition 12.3, condition 13.2 and condition 13.3**:
- (a) Müller shall have no liability whatsoever and whether arising in contract, tort (including negligence) breach of statutory duty or otherwise for any:- (i) pure economic loss; (ii) loss of profit; (iii) loss of business; (iv) loss of revenues; (v) loss of margin; (vi) loss of opportunity; (vii) depletion of goodwill or otherwise; or (viii) any indirect, special or consequential losses or damages whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- (b) Subject to **condition 12**, Müller's total liability in respect of any Product Recall shall be limited to the provision of replacement Products or where they are not available, credit on receipt of the recalled Products or proof of their destruction.
- (c) Müller shall have no liability whatsoever and whether arising in contract, tort (including negligence) breach of statutory duty or otherwise in respect of any claim, action or proceedings brought by the Buyer later than 1 (one) year following the date the cause of action arose.
- 14. BUYER'S INDEMNITY**
- 14.1 The Buyer shall indemnify Müller in respect of any and all damage, injury or loss occurring to any person or property and against all liabilities, costs, expenses, damages and losses (whether direct, indirect or consequential), including, without limitation, all interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by Müller as a result of or in connection therewith arising from the condition or use of the Products in the event and to the extent that the damage injury or loss shall have been occasioned partly or wholly by the act, omission, negligence or carelessness of the Buyer or its employees, agents, servants or sub-contractors or by any breach of the Buyer of its obligations to Müller hereunder.
- 15. INTELLECTUAL PROPERTY RIGHTS**
- 15.1 Save as otherwise agreed in writing, all intellectual property rights (whether registered or unregistered) in the Products and the manufacturing process shall remain the property of Müller or its licensors. The Buyer shall not acquire any intellectual property rights, whether by licence or otherwise, relating to the Products or manufacturing processes in any way and may not copy or imitate the Products or do or omit to do, or permit any third party to do or omit to do, anything which may damage such intellectual property rights in any way.
- 16. ASSIGNMENT AND OTHER DEALINGS**
- 16.1 Müller may at any time assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- 16.2 The Buyer may not assign, transfer, charge, sub-contract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Müller.
- 17. TERMINATION AND CONSEQUENCES**
- 17.1 Müller shall (without prejudice to any other rights or remedies available to it) be entitled to terminate the Contract with immediate effect without liability if:-
- (a) the Buyer becomes bankrupt or shall be deemed to be unable to pay its debts for the purpose of Section 123 of the Insolvency Act 1986 or shall enter into an arrangement with its creditors or if a resolution shall be passed or proceedings commenced for the administration or liquidation of the Buyer or if a receiver or manager shall be appointed over all or part of the Buyer's assets or undertaking or if anything analogous to the foregoing occurs under the laws of any jurisdiction or if Müller reasonably anticipates that any of the foregoing events are likely to occur;
- (b) if the Buyer commits or allows to be committed any breach of the Contract; or
- (c) if there is a change in the majority ownership or control (whether directly or indirectly) of the Buyer.
- 17.2 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination.
- 17.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
- 18. CANCELLATION**
- 18.1 The Buyer may not cancel the Contract without the prior written consent of Müller, which if given (at Müller's sole discretion) shall be deemed to be on the express condition that the Buyer shall indemnify Müller in full against all liabilities, costs, expenses, damages and losses (whether direct, indirect or consequential), including, without limitation, all interest, penalties, and legal and other professional fees and expenses incurred or paid by Müller
- 18.2 Products returned to Müller without Müller's prior written consent will not be accepted for credit.
- 19. CONFIDENTIALITY**
- The Buyer shall keep as confidential all information disclosed to it by or on behalf of Müller and/or any Müller Group company which could reasonably be considered as confidential. This shall include, but not be limited to, all information which relates to sales and marketing, manufacturing processes and know-how, specifications, sourcing information (both raw materials and suppliers of services) and all information relating to Müller's and/or any Müller Group company's business, affairs, customers, clients or suppliers which is not in the public domain. Save to the extent disclosure is required by law, the Buyer shall not use any information so provided other than to enable it to perform its obligations under the Contract. All such information (and all copies thereof) shall be immediately returned to Müller upon termination of the Contract.
- 20. FORCE MAJEURE**
- Müller reserves the right, at its sole discretion, to defer the date of delivery or to cancel the Contract or reduce the volume of the Products ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Müller including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, power shortages, machinery failure, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable raw materials, packaging or milk, provided that, if the event in question continues for a continuous period in excess of 90 (ninety) days, either party shall be entitled to give notice in writing to the other party to terminate the Contract.
- 21. ATTENDANCE ON SITE**
- 21.1 The Buyer shall only be entitled to attend Müller's premises if the Buyer gives to Müller reasonable notice and all information reasonably requested by Müller regarding the purpose of the Buyer's attendance and Müller, at its sole discretion, confirms acceptance of such attendance to the Buyer in writing. The Buyer shall comply with all site rules and regulations and health and safety policies and procedures applicable to such premises whilst attending such premises. The Buyer shall indemnify Müller and keep Müller fully and effectively indemnified in respect of any and all claims or allegations made or proceedings taken against Müller (and all associated costs and expenses, including, but not limited to, legal expenses incurred by Müller) by any person, firm or company including employees of Müller, or of the Buyer or of any contractor of the Buyer (or their personal representative), whether in respect of death, personal injury or damage to property arising directly or indirectly from the attendance at such premises.
- 21.2 Any information disclosed by Müller to the Buyer during any such site visits shall be subject to the confidentiality obligations set out at **condition 19**.
- 22. GENERAL**
- 22.1 Each right or remedy of Müller under the Contract is without prejudice to any other right or remedy of Müller whether under the Contract or not.
- 22.2 If any provision (or part of any provision) of the Contract is or becomes invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. 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.
- 22.3 No failure or delay by Müller to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right

or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. 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.

- 22.4 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- (a) (in case of communications to Müller) to its registered office or such changed address as shall be notified to the Buyer by Müller and marked for the attention of the Director of Legal; or
 - (b) (in the case of communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to Müller by the Buyer.
- 22.5 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, at 9.00am on the second Working Day after posting;
 - (b) if delivered by hand, at the date and time of delivery to the address referred to in **condition 22.4**; or
 - (c) if sent by fax on a Working Day prior to 4.00 pm, at the time of transmission and otherwise on the next Working Day.
- 22.6 The provisions of **conditions 22.4 and 22.5** shall not apply to the service of any proceedings or other documents in any legal action.
- 22.7 The Buyer shall not be entitled to hold itself as an agent or representative of Müller nor shall the Buyer be entitled, in any way, to bind Müller without the prior written consent of Müller (any such consent to be signed by a designated member on behalf of Müller).
- 22.8 A person who is not a party to the Contract shall not have any rights under or in connection with it save that Müller has entered into the Contract for the benefit of itself and each Müller Group company. Accordingly, any Müller Group company shall be entitled to enforce the terms of the Contract as if it were a party to it.
- 22.9 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under the Contract are not subject to the consent of any person who is not a party to the Contract.
- 22.10 The Contract, and any dispute or claim arising out of or in connection with it or its 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, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

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