

# SAMWORTH BROTHERS

*Food & Family since 1896*

## CONDITIONS OF PURCHASE FOR DIRECT MATERIALS

### 1 Interpretation

1.1 **Definitions:** In the context of these Conditions of Purchase, the following definitions apply:-

**"Agreement"** means the Contract Details, the Conditions of Purchase, the Order and the Schedules as amended from time to time in accordance with clause 30.7 of these Conditions of Purchase.

**"Applicable Laws"** means all laws, enactments, regulations, orders, standards or other similar instruments as well as good industry and environmental practice relevant to the activities envisaged by this Agreement.

**"Blanket Order"** means a repeat order for Goods, the quantity and frequency of which is identified in a written delivery schedule and agreed by You.

**"Bribe"** means: (i) any payment, gift, benefit or advantage of any kind, which is offered, promised, given, authorised, requested, accepted or agreed, whether directly or indirectly (through one or more intermediaries) and whether as an inducement or reward, for any form of improper conduct by any person in connection with their official, public, fiduciary, employment or business role, duties or functions; and/or (ii) anything that would amount to an offence of bribery or corruption under Applicable Law; and **"Bribes"**, **"Bribed"**, **"Bribery"**, **"Bribing"** and other variants of **"Bribe"** shall be construed accordingly.

**"Business Day"** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**"Conditions of Purchase"** means these terms and conditions as amended from time to time in accordance with clause 29.7.

**"Contract Details"** means the Contract Details set out in the Agreement.

**"Data Controller"** shall have the same meaning as in the Data Protection Legislation.

**"Data Processor"** shall have the same meaning as in the Data Protection Legislation.

**"Data Protection Legislation"** means all laws that relate to data protection, privacy, the use of information relating to individuals, and or the information rights of individuals including, without limitation, the Data Protection Act 2018, Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Consumer Protection from Unfair Trading Regulations 2008, the General Data Protection Regulation and any relevant national laws implementing the same all as amended or replaced from time to time.

**"Data Subject"** shall have the same meanings as in the Data Protection Legislation.

**"Delivery"** in relation to Goods means completion of the unloading of the Goods at the relevant location.

**"Goods"** and **"Services"** means the goods and services described in the Order or necessarily incidental thereto.

**"IPR"** means any patent, trade mark, trade name or design (in each case whether registered or unregistered), copyright, or other similar right throughout the world.

**"Order"** means the order for the Goods submitted by Us.

**"Parties"** means Us and You.

**"Slavery and Human Trafficking"** shall have the meaning given to it in Section 54 (12) of the Modern Slavery Act 2015.

**"Supplier Personnel"** means any person(s) (including employees, consultants, subcontractors and agents) used by or acting for or on behalf of You in connection with this Agreement, from time to time.

### 1 Offer and Acceptance

1.1 The Agreement forms the terms and conditions which apply to the supply of the Goods between Us and You. No other terms and conditions shall apply (except those implied in favour of a purchaser by law which are not inconsistent with the Agreement) whether or not the same are endorsed upon, delivered with or referred to in any quotation or other document delivered or sent by You to Us, including delivery notes. Any reference overleaf to Your quotation, specification or like document will not be deemed to imply that any terms or conditions endorsed upon, delivered with or referred to in such quotation, specification or like document will have effect to the exclusion or amendment of this Agreement. Any amendment to the Agreement must be expressly agreed by the Parties by means of a specific written amendment in accordance with clause 29.7 of these Conditions of Purchase.

1.2 The Order constitutes an offer by Us to purchase Goods from You in accordance with the terms of the Agreement.

1.3 The Order shall be deemed accepted on the earlier of:

(a) You issuing acceptance of the Order; or

(b) any act by You consistent with fulfilling the Order.

Acceptance of the Order is deemed to bind You to the terms of the Agreement and no Goods shall be supplied by You, your employees, agents or representatives except in accordance herewith.

### 2 Delivery

2.1 Time is of the essence of the Agreement in respect of delivery dates for Goods and Services and delivery is deemed not to be complete until such time as all documentation and Goods specified in the Order have been delivered.

2.2 You shall inform Us of any circumstances likely to cause any delay in delivery or completion as soon as the circumstances are known.

2.3 We will not accept any charges for packages, crates or containers of any description whatsoever including any charges incurred in the disposal of any packages, crates or containers used to transport the Goods to Us unless We expressly agree otherwise in writing.

2.4 We will not, unless We expressly agree otherwise in writing, bear the cost or any part thereof of delivery to the point of delivery required or in respect of unloading or otherwise handling goods and all expenses in connection therewith are to be paid by You. All Goods (or other materials) must be delivered to the address for delivery specified by Us during normal working hours, and until delivery to such address will be at Your risk in all respects.

### 3 Property and Risk

3.1 The property and risk in the Goods will pass to Us at the time and place of Delivery unless otherwise specifically agreed in writing by Us.

3.2 Where any advance payment or progress payment is made by Us, the property, but not the risk, in any materials purchased or allocated by You for the purpose of this Agreement shall immediately vest in Us.

#### 4 **Payment**

4.1 Payment terms will vary dependent upon the sector the supplier operates in and the scale of the relationship. Unless otherwise agreed in writing by Us, We shall pay Your invoice(s) in the next weekly payment run following the 90th day of the date of receipt of a valid invoice or confirmed receipt of the Goods and/or Services whichever is the later. We reserve the right to deduct from any monies due or becoming due to the You, any monies due from You to Us in respect of goods supplied or services rendered by the Us, or in respect of any other claims on the You.

4.2 You will provide Us with such invoices, advice notes, delivery notes, statements and the other documentation as We may request from time to time.

4.3 We may, without limiting Our other rights or remedies, set-off any amount owing to Us by You against any amount payable by Us to You.

#### 5 **Our Goods**

5.1 Any dyes, tools, patterns, equipment, negatives, documentation, data or goods supplied by Us to You for any purpose in connection with the Agreement or which is in the possession or custody of You and belongs to Us by virtue of the Agreement are herein referred to as 'Our Goods'.

5.2 Our Goods shall not be removed from Your premises without Our written instructions, except for the purpose of fulfilling the Agreement.

5.3 The property in Our Goods and any IPR therein shall remain vested in Us, and We may retake possession thereof at anytime without notice. You shall keep Our Goods separate and apart from all property of other persons and shall clearly mark Our Goods 'Property of Samworth Brothers Limited'.

5.4 We, and our employees or agents are granted irrevocable authority to enter Your premises or any other premises where Our Goods are located to take possession of Our Goods and (if necessary) to dismantle Our Goods from anything to which they are attached.

5.5 You hereby agree to indemnify Us against loss of or damage to Our Goods during the time they are in Your possession, custody or control. During such time, You shall adequately insure Our Goods in the name and for the benefit of, Us at Your expense, with a reputable insurance company, against loss or damage arising from any cause whatsoever and shall produce to Us on demand the policies of such insurance and the receipts for premiums paid thereon.

5.6 You hereby waive any lien that you might otherwise have (whether at the date hereof or subsequently) on any of Our Goods for work done thereon or otherwise, but this clause shall not be construed as a waiver of any other right of recovery of any charges that may be due to You for such work.

5.7 You shall keep Our Goods free of all mortgages, charges or other encumbrances and will procure that any lien over the Our Goods is discharged forthwith.

5.8 You shall promptly pay Us on demand, the full replacement value of any of Our Goods which are not returned or satisfactorily accounted for.

#### 6 **Changes in Specification**

We may at any time make changes in writing in relation to the Agreement, including changes in the drawings or specification, quantities, packing or time or place of delivery. If such change results in an increase in cost of, or time required for, the performance of the Agreement, an equitable adjustment shall be made to the price, delivery schedule or both and such adjustment and the Parties'

agreement thereto recorded in writing prior to such adjustment taking effect. Any claim or adjustment by You must be approved by Us in writing before You proceed with such change.

#### 7 **Disposal of Own Labelled Goods**

In the event of non-delivery to Us, or the return to You for whatever reason, of any Goods or other materials which are manufactured, packaged or labelled in such a manner as to identify them in any way with Us, You shall not under any circumstances dispose of those Goods or other materials to a third party without Our prior written consent. Any specific instructions given by Us in respect of such disposal shall be strictly adhered to by You and, in any event, all references to Our name, address, trademarks and any other indications of Our identity shall be totally removed by You prior to disposal so that no such reference remains which might lead any third party to associate the goods or other materials with Us.

#### 8 **Inventions and improvements**

8.1 Where We commission You under the Agreement to create any work (including without limitation any goods, recipes, products, designs or artworks) or any invention or improvement, ownership of such works, inventions and improvements including any IPR shall vest in Us absolutely upon their creation and be Our sole and absolute property. To the extent necessary or expedient You hereby assign with full title guarantee such IPR to Us.

8.2 You hereby assign to Us with full title guarantee all inventions, improvements and discoveries (whether such is patentable or not) conceived in the performance of the Agreement made by any person employed by or working under the direction of You and on completion of the Agreement, You shall give to Us all designs, drawings, data and information of whatsoever nature in its possession.

#### 9 **Termination**

We shall be entitled to terminate the Agreement without liability to You and without prejudice to Our other rights in any of the following circumstances:-

9.1 If You fail to deliver the Goods or Services on the date specified or in any delivery schedule or Order, time being of the essence.

9.2 The Goods or Services supplied are such that they do not comply in every way with the Agreement.

9.3 You have had a bankruptcy order made against you or have made an arrangement or composition with your creditors or otherwise taken the benefit of any legislation or regulation for the time being in force for the relief of insolvent debtors or have suffered or allowed any execution, whether legal or equitable, to be levied on your property or obtained against you or (being a body corporate) have had convened a meeting of creditors (whether formal or informal) or have entered into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or have a receiver, manager, administrative receiver or administrator appointed of your undertaking or any part thereof or a resolution has been passed or a petition presented to any Court for the winding-up of You or any proceedings have been commenced relating to the insolvency or possible insolvency of You.

9.4 You come under the ownership or control of a competitor of Us.

9.5 Any breach by You of a term of this Agreement.

#### 10 **Force majeure**

10.1 Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable control (**Force Majeure Event**).

- 10.2 You shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of Your obligations under this Agreement.
- 10.3 If a Force Majeure Event prevents, hinders or delays the performance of Your obligations for a continuous period of more than 28 days, We may terminate the Agreement immediately by giving written notice to You.
- 11 Cancellation**
- 11.1 We may at any time, by giving written notice to You, cancel the Agreement forthwith and in such event We shall pay You a fair and reasonable sum for all work in progress and raw materials received and paid for by You in and for the performance of the Agreement prior to the time of such cancellation and You shall accept such a sum in full settlement of all claims under the Agreement.
- 11.2 For the avoidance of doubt the provisions of clause 11.1 shall not apply if the Order is terminated by Us pursuant to the default of You pursuant to any term of the Agreement.
- 12 IPR**
- 12.1 You warrant that the sale or use of the Goods by Us will not infringe any IPR in any country and You undertake to indemnify Us against loss, damage, liability costs and expenses which We suffer or incur arising from actual or alleged infringements of the same, except that this indemnity shall not apply to the extent that such loss or damage arises out of the Goods being manufactured or work being performed in accordance with designs or specifications provided by Us.
- 12.2 You shall treat the Order and all designs, drawings, specifications and information supplied therewith as confidential and shall not disclose the same to any third party without Our prior written consent or infringe any copyright, patent, trade mark, trade name or registered design vested in or used by Us.
- 13 Quality**
- 13.1 In addition to those warranties implied by statute or by common law or under any term of the Agreement, You warrant that:-
- (a) The design, construction and quality of any Goods to be manufactured or supplied by it, comply in all respects with any Act, statute, statutory rule, order, European Union (EU) Directive or regulation which is in force at the time (and will on request provide a separate written warranty to like effect) and all Services will be carried out with reasonable skill and care;
  - (b) All Goods and Services will comply in every way with the specification, drawings, samples or other descriptions;
  - (c) the quantity of Goods will be as stated in the Order and the Contract Details;
  - (d) the Goods are of satisfactory quality and fit for any purpose held out by You or made known to You;
  - (e) the Goods will correspond to any sample and will be free from defects in design, materials and workmanship (including minor defects however slight);
  - (f) the design, manufacture, construction, supply, use and quality of Goods and performance of the Services comply in all respects with any relevant Act, statute, statutory rule, order, directive, regulation or statutory licence, consent, standards or permit or other legal requirement which may be in force at the time;
  - (g) the Goods and all supporting literature and documentation comply with all statutory requirements and regulations relating to the sale of Goods;
  - (h) the Goods have all necessary export and/or import licences and comply with all relevant government export and/or import regulations; and
  - (i) any services will be performed by appropriately qualified and trained personnel with due care and diligence, in accordance with any service level standards notified to You from time to time and to such standard of high quality
- and performance as it is reasonable for Us to expect from a fully qualified and experienced provider of the Services; and
- (j) all representations, statements or warranties made or given by You, your servants and agents (whether orally, in writing or in any of Your brochures, catalogues and advertisements) regarding the quality and fitness for purpose of the Goods or any of the Services will be deemed to be an express condition of the Agreement.
  - (k) Without prejudice to any other remedy (whether offered by You or a third party or otherwise), if within twelve months of Delivery or the stated shelf life of the Goods, it is discovered that the Goods supplied and/or services performed do not comply with the Agreement, then We have the right to require You to remedy any defect in the Goods and/or services or to supply replacement Goods and/or re-perform the services in accordance with the Agreement. This right includes replacement of all Goods and/or re-performance of the services, which because of this breach of Agreement are not reasonably capable of being used by Us. Alternatively, and if the defects are not remedied, We may treat the Agreement as repudiated and may require the repayment of the Price, or any part of it, that We have paid.
- 14 Anti-bribery and corruption**
- 14.1 You warrant and undertake that You will not, and will procure that any Supplier Personnel will not, Bribe in connection with this Agreement or its performance.
- 14.2 You will adopt, implement, maintain, enforce and update (as necessary) Your own written anti-bribery policies and procedures constituting adequate procedures under the Bribery Act 2010. You will provide adequate and regular training to Your Supplier Personnel in order to ensure an understanding of its policy and procedures and their obligations arising from it on a continuing basis.
- 14.3 You shall produce to Us a copy of such written policies and procedures within seven days of receiving a written request from Us.
- 14.4 You will notify Us in writing upon becoming aware of, or suspecting, any failure to comply with any provisions of this clause 14.
- 14.5 You will notify Us upon becoming aware of any extortive solicitation, demand or other request for anything of value, by or on behalf of any person relating to this Agreement or its subject matter.
- 14.6 You shall hold harmless, indemnify and keep indemnified Us, Our affiliates and Ours and their successors, assigns, officers, employees and representatives against any and all losses which any or all of them suffers or incurs in connection with a breach of clause 14. This clause 14 shall not require You to indemnify Us for the amount of any fine constituting a criminal penalty, to the extent that such indemnity would not be permitted by Applicable Law.
- 14.7 If You or any Supplier Personnel Bribe in connection with this Agreement, without prejudice to Our other rights or remedies under this Agreement or under law, You will promptly upon request by Us remove or procure the removal of the relevant person who has Bribed from all involvement in connection with the performance of this Agreement and take such other action as We reasonably require for the purpose of remedying or preventing the future occurrence of such activity.
- 15 Guarantee and Indemnity**
- 15.1 Without prejudice to Our rights under any conditions, warranty or other term implied herein by statute or by common law or under any term of the Agreement, You will be liable to Us for and indemnify and keep Us indemnified against any liability, claim, costs (on a full indemnity basis) proceeding, loss or damage (including but not limited to the stopping of or interference with the production or manufacture or supply or recall by Us of any goods or services):-

- (a) caused by any defect in any Goods or Services supplied by You or by Your failure to comply with any appropriate specification or requirement of the Agreement;
- (b) resulting from delays, defaults or non-deliveries arising (other than as due to negligence on the part of Us) including but not limited to any increase in:-
- (i) the cost of labour or material required to produce the Goods or obtain the Services elsewhere
- (ii) the cost of transportation
- (iii) the cost of any other item in connection with the Goods or Services which would not have been incurred but for such delay, default or non delivery
- (c) incurred by Us under Agreements entered into by Us, the performance of which has been delayed or rendered impossible by Your breach of its obligations hereunder;
- (d) arising directly or indirectly out of any breach by You of the Agreement.
- Any sums expended by Us so caused or arising shall be reimbursed to Us by You on demand.
- 15.2 You consent to Us transferring any guarantee or similar rights given by You to Us in relation to the Goods or Services supplied to any other person or company to whom We sell, hire or dispose of such Goods or Services to the intent that such guarantee or similar right may be enforced against You, not only by Us but also by any person or company claiming through Us.
- 15.3 Subject to clause 15.4, Our entire liability to You arising out of or in connection with this Agreement shall be limited to direct losses only whether arising from contract, tort, negligence or otherwise and shall be limited in each year of the term of the Agreement to 100% of the Price paid to You by Us under the Agreement in the applicable year
- 15.4 Nothing in this Agreement excludes or limits either party's liability in respect of:
- (a) death, personal injury caused by its negligence (including negligence of its employees, agents or contractors); or
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter or liability that it cannot legally limit or exclude or attempt to limit or exclude; or
- (d) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.
- 15.5 Subject to 15.3 above We shall not be liable for any special, indirect, or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise, and whether or not such loss or damage is foreseeable, foreseen or known.
- 15.6 The following losses shall be recoverable by Us from You as direct losses in the event of Your default act or omission:
- (a) all costs incurred by Us in relation to remaking orders and/or making replacements for any products (including, without limitation, costs of ingredients, packaging, processing and labour);
- (b) all costs associated with holding wasted products on site;
- (c) all costs associated with disposals of products (including, without limitation, the costs of specialist waste carriers) and cleaning (including, without limitation, clean-up of contaminated silos);
- (d) to the extent it is not already covered by Clause 15.6(a), the costs of sourcing alternative materials;
- (e) all costs associated with a product recall;
- (f) any charges from Our retailer customers;
- (g) any additional transport costs; and
- (h) lost management time and the costs of any audit required by Us as a result of Your breach.
- 15.7 This clause 15 shall survive termination of the Agreement.
- 16 **Insurance**
- 16.1 During the term of the Agreement and for a period of 7 years thereafter, You shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance, employer's liability insurance, public liability insurance and any insurance required by law to cover the liabilities that may arise under or in connection with the Agreement (including insurance necessary to insure the Goods against all risks including risks of carriage until such time as such risk passes to Us in accordance with this Agreement and risks related to consumer protection legislation or other laws which impose liability as a result of the manufacture, sale or distribution of the Goods).
- 16.2 The level of insurance cover shall be of an amount adequate to cover everything a reasonably prudent supplier would insure when providing goods or services similar to those You are supplying to cover your obligations under this Agreement but in the case of public and product liability and employer's liability, shall not be less than £5 million in respect of any one incident. Your product, public and employer's liability insurance shall contain an indemnity to principals clause.
- 16.3 You shall, on Our request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance within 10 Business Days of such request.
- 17 **Confidentiality**
- 17.1 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes, pricing, commercial terms or initiatives which are of a confidential nature (**Confidential Information**) and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such Confidential Information to those of its employees, agents and subcontractors (**Representatives**) who need to know it for the purpose of discharging the Receiving Party's obligations under the Agreement; shall ensure that such Representatives comply with the obligations set out in this clause 17 as though they were a party to the Agreement; and shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this clause 17. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction or to the extent that the Confidential Information has already become publicly available or generally known to the public at the time of the disclosure other than as a result of a breach of this clause 17.
- 17.2 This clause 17 shall survive termination of the Agreement.
- 17.3 Each party shall indemnify the other party against any unauthorised use or disclosure of confidential information under this clause 17.
- 17.4 On termination or expiry of this Agreement or on the request of the Disclosing Party, the Receiving Party must return or destroy (if so requested) the Confidential Information of the Disclosing Party and any records or copies of the same in whatever form and shall confirm such return or destruction (as applicable) to the Disclosing Party in writing.

- 18 **Data Protection**
- 18.1 For the purpose of this Agreement We shall act in the capacity of Data Controller and You shall act in the capacity of Data Processor.
- 18.2 Where Personal Data is Processed by You, under or in connection with this Agreement, You shall:
- (a) only Process such Personal Data in accordance with instructions from Us and acknowledge that use of the Personal Data for any other purpose, in particular for its own purposes, is expressly prohibited;
  - (b) except insofar as necessary for it to provide the Goods and Services, not otherwise modify, amend or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party unless specifically authorised to do so in writing by Us;
  - (c) implement appropriate technical and organisational measures to protect Personal Data against unauthorised or unlawful Processing of such Personal Data and against accidental loss, destruction or damage to such Personal Data and upon request from Us, to inform Us of the measures it has taken to comply with this clause 18.2 and take such other reasonable measures as We may require to ensure it does so comply;
  - (d) subject to clause 18.2(a) above, process the Personal Data for the purposes of providing the Goods and Services and as specified in this Agreement in accordance with the Data Protection Legislation (as applicable);
  - (e) to provide promptly to Us from time to time such information and access as We may reasonably require in relation to the Personal Data and its processing;
  - (f) notify Us promptly and assist Us (at Your cost) in responding to data subject access requests, or enquiries made from relevant regulatory authorities (including the UK Information Commissioner's Office). You shall provide full cooperation and assistance to Us (at Your cost) in relation to any such complaint, allegation or request by providing full details of any such complaint, allegation or request together with a copy of the Personal Data held by it in relation to the individual within three (3) Business Days of receipt of the request for such Personal Data;
  - (g) to notify Us promptly (an in any case within 24 hours) of any unauthorised or non-compliant loss, access or other processing of Personal Data;
  - (h) to ensure that Personal Data is backed up and that such back-ups are maintained and updated on a regular basis;
  - (i) to comply with its obligations under any applicable Data Protection law, and shall not, by act or omission, e.g. by undertaking any processing or allow any processing to take place in a manner which would in any way put We in breach of, or jeopardise any registration under, any such Data Protection law;
  - (j) appoint and identify to Us a named individual within You to act as a point of contact for any enquiries from Us relating to Personal Data;
  - (k) not transfer the Personal Data to any country outside the European Economic Area without the prior written consent of Us and/or the customer (as applicable) and, subject to You complying with the terms of a data export agreement on terms reasonably required by Us which reflect the model clauses approved by the European Commission and which shall be updated from time to time to reflect any changes in such model clauses or an alternative method of international data transfer which has been explicitly approved and sanctioned by the European Commission and the relevant regulator(s) or Competent Authorities;
  - (l) cease Processing the Personal Data immediately upon termination of this Agreement or, and as soon as possible thereafter, at the option of Us, either return, or delete from its systems, the Personal Data and any copies of it or of the information it contains You shall confirm in writing that this clause 18.2(l) has been complied with in full;
  - (m) indemnify Us against any loss or damage suffered by Us in relation to any breach by You of its obligations under this clause 18; and
  - (n) if requested, submit to a data security audit once during any Agreement year and if any regulator of We requests or requires an audit of Us and/or any of its service providers.
- 18.3 You shall:
- (a) take reasonable precautions to preserve the integrity of any data that it processes and to prevent any corruption or loss of such data; and
  - (b) if there is any corruption or loss of the data attributable to any default by You promptly restore the data at its own expense or, at Our option, promptly reimburse Us for any reasonable expenses it incurs in having the data restored by a third party.
- 18.4 If at any time You wish to appoint a sub-processor to Process such Personal Data, We give You permission to appoint such sub-processor provided that You will be responsible for the Processing of the Personal Data carried out by any sub-processor to the same extent as if the Processing were carried out by You.
- 18.5 You will keep adequate records of its receipt and use of the Personal Data in connection with the Agreement.
- 18.6 In respect of any Processing of Personal Data by sub-contractors or agents of You, You shall ensure that a suitable agreement is in place with the third party or sub-contractor and that the terms of the agreement so far as it relates to the processing of Personal Data with the sub-contractor or third party are no less protective of Personal Data as the level of protection imposed on You under this Agreement.
- 19 **Anti-slavery and human trafficking**
- 19.1 You shall and shall procure (where relevant) that all persons who are performing services or providing goods in connection with, or which will or may be used in performing or to support the performance of this Agreement in any part of the world (collectively, Your **Supply Chain**) shall at all relevant times:
- (a) comply with the provisions of the Modern Slavery Act 2015 (the Act) and all applicable laws, regulations, codes and guidance made under it or relating to it, and ensure that all of Your relevant Supplier Personnel have received appropriate training on the same;
  - (b) not engage in any activity, practice or conduct that would constitute an offence under the Act if such activity, practice or conduct were carried out in the UK;
  - (c) comply with any policy relating to Slavery and Human Trafficking as required by Us;
  - (d) take all reasonable steps to ensure that Slavery and Human Trafficking are not taking place in its business or its Supply Chain;
  - (e) immediately notify Us if You have reason to believe that it or any person in its Supply Chain is engaged in Slavery and Human Trafficking or is in breach, or is likely to breach, the Act or any provision of this clause 19 (or would do so if it were a party to this Agreement), or if it receives a communication from any person alleging any of the foregoing.
- 19.2 You shall ensure that each of your sub-contractors shall be bound in writing by terms equivalent in all respects to those set out in this clause 19. You shall provide evidence in writing of the Supplier's compliance with this clause 19 promptly on Our request.
- 19.3 You agree that the record-keeping, audit and other related terms as set out in clause 24 of this Agreement shall apply equally to Your compliance with this clause 19. Without prejudice to the generality of the foregoing, You shall maintain detailed, accurate and up-to-date records setting out Your staff hiring procedures, Your supplier selection processes and the steps You take to ensure that You and each member of Your Supply Chain is not engaged in

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|      | Slavery and Human Trafficking, and shall promptly provide copies of such records to Us on Our request.  |      | any way relieve You of its obligations and duties under the Agreement or otherwise.   |
| 19.4 | It is a condition of this Agreement that you are registered with Sedex (Supplier Ethical Data Exchange) and linked to Us as a direct supplier. You shall maintain correct and up to date Sedex records and you agree to undertake a third party ethical audit, if requested.  | 22   | <b>Post Delivery Inspection</b>   |
| 19.5 | It is a condition of this Agreement that each of Your subcontractors is registered on Sedex and linked to Us as an indirect supplier and You agree to provide Us upon demand with any information pertaining to the ethical performance of any of Your subcontractors as We may reasonably request.   |      | Goods supplied shall be subject to Our inspection and right of rejection at any time within 6 months of Delivery where they fail to comply with the Agreement in any way. The right to reject Goods is available to Us however slight the failure to meet the requirements of the Agreement (and any legislative or regulatory provision to the contrary shall not apply) and in respect of date of payment therefor. When Goods are rejected either in part or in total, they will be returned at Your expense.  |
| 20   | <b>Assignment</b>   | 23   | <b>Specifications</b>   |
| 20.1 | You shall not, without Our prior written consent, assign or subcontract the Agreement or any part thereof.  |      | Notwithstanding any provision or approval of plans, drawings and/or specifications by Us, You warrant that Goods or equipment supplied by You are suitable for any purpose notified to You or apparent from the description and in particular for use in the conditions and situation in which the said goods or equipment are to be used.  |
| 20.2 | We may assign the benefit and delegate the burden of the Agreement or any part thereof without requiring Your consent.  | 24   | <b>Audits</b>   |
| 20.3 | We may at any time novate this Agreement in whole or in part to any other entity within our Group (being any subsidiary, holding company or subsidiary of such holding company of the Customer, each as defined in section 1159 of the Companies Act 2006) (a " <b>Group Company</b> ") and You will do such things and execute such documents as may be necessary to give full effect to any such novation.  | 24.1 | We may conduct at Your cost (and You agree to provide all reasonable assistance to Us in connection with) regular audits of Your premises and facilities and unannounced audits thereof (which unannounced audits shall not take place more than 2 times in each year during the continuation of any Agreement unless We acting reasonably decide at Our discretion that additional unannounced audits are required).   |
| 20.4 | If at any time during the Term, any Group Company ceases to be a Group Company as a result of a divestment or reorganisation (a "Divested Entity"), then We shall be entitled to continue to provide the Goods and Services to that Divested Entity under any transitional services agreement and either: (i) the Divested Entity shall be entitled to order Goods under this Agreement and You shall provide such Goods as if those Goods were ordered by Us; or (ii) You shall, promptly upon Our written request, enter into a separate agreement with the Divested Entity on terms no less favourable than those contained in this Agreement, including: <ul style="list-style-type: none"> <li>(a) pricing for the Goods that is no higher than, and subject to no less favourable pricing mechanisms than, those set out in Schedule 2;</li> <li>(b) legal and commercial terms that are no less favourable to the Divested Entity than those contained in this Agreement; and</li> </ul> | 24.2 | We will be entitled to charge You under clause 25.1 above as follows: <ul style="list-style-type: none"> <li>(a) £750 plus VAT for any visit to Your premises or facility, to audit You and/or Your premises or facility, where such premise or facility is in Great Britain;</li> <li>(b) £750 plus VAT and any associated travel expenses, for any visit to Your premises or facility, where such premise or facility is outside Great Britain;</li> <li>(c) £350 plus VAT for any audit of You or Your premises or facility, where We are not required to attend Your premises or facility and such audit can be undertaken remotely.</li> </ul> |
| 20.5 | any rebates, incentives and other financial benefits set out in this Agreement, will be calculated (unless otherwise agreed) by reference to the aggregate volumes supplied to Us and the Divested Entity as if such volumes were supplied to a single customer, with such rebates incentives and other financial incentives being applied on a pro rated basis between Us and the Divested Entity.   | 24.3 | We may increase the charges set out in clause 25.2 by notifying You in writing from time to time.   |
| 21   | <b>Pre Delivery Inspections</b>   | 25   | <b>Environment and Responsible Sourcing</b>   |
| 21.1 | Without prejudice to Our right to reject the Goods in accordance with clause 22, We have the right to inspect the Goods during manufacture and before despatch and to carry out such tests as are called for in the Order or any attached specification and You shall allow facilities to Our representatives for such inspection and testing and shall notify Us in writing when the Goods are ready for inspection and testing. To allow for comprehensive testing of certain Goods, We require 10 days from the date the Goods are available to confirm acceptability of the Goods.  | 25.1 | You accept and acknowledges that You have full responsibility in respect of adherence to all current legislation and regulation both under UK and EU statutes and directives and regulations in relation to Your environmental obligations and compliance therewith by any Goods and/or Services supplied to Us. In relation to pesticides and herbicides, it is Your responsibility to ensure by demonstrating control procedures and data records that all Goods supplied to Us comply fully with all current legislation governing the supply of food stuffs.  |
| 21.2 | Where the Order comprises a number of similar items and tests carried out by or for Us which would entitle Us to reject one or more such items, We may reject all such items which are not shown to be satisfactory in tests carried out and/or financed by You or by Us.   | 25.2 | You agree before Delivery to furnish Us in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the articles supplied and thereafter information concerning any changes in such properties or ingredients. We will rely on the supply of such information from You in order to satisfy its own obligations under relevant health and safety requirements.   |
| 21.3 | No inspection or testing by Us pursuant to this clause shall imply any acceptance of the Goods or Services by Us or in  | 25.3 | In respect of all Goods and Services supplied You will maintain or observe strict quality control and supplier quality assurance standards in accordance with the requirements of Us, Our customers, relevant British and EU standards and statutes/regulations and regulatory bodies to ensure such Goods and Services meet such standards and requirements.   |

- 25.4 You and Your supply chain will comply with all relevant aspects of the Samworth Responsible Sourcing Policy. Any updates will be available on Our website (<https://www.samworthbrothers.co.uk/>) and it is Your responsibility to check this regularly to ensure You are aware of the most up to date version.
- 25.5 You will comply with any of Our policies notified to You by Us from time to time and all lawful and reasonable directions provided by Us in relation to them.
- 26 **Advertising**
- You will not, without first obtaining Our written consent, in any way whatsoever advertise or publish the fact that You have contracted to supply to Us the Goods or Services herein mentioned.
- 27 **Blanket Orders**
- 27.1 Where We place and You accept a Blanket Order, You bind yourself to supply such of Our requirements for the Goods or Services as We may from time to time specify in delivery schedules and We agree subject to the terms of the Agreement to pay for the Goods and Services supplied. Until the receipt of a delivery schedule, You are not authorised to commence the manufacture or production of the Goods or carrying out of the Services.
- 27.2 If You fail to accept and comply with any delivery schedule submitted by Us, You will be deemed to be in breach of the Agreement and will pay Us as damages for the breach all costs and expenses incurred by Us as a result thereof, including, but not limited to, all sums expended by Us in securing an alternative supplier for the Goods and Services to satisfy Our future requirements (including any sums, expenses by reason of any increase in the price) and any loss suffered by Us as a result of delays in production.
- 27.3 You agree to provide us on demand with any information reasonably requested by us pertaining to the sourcing and environmental impacts of the Goods or Services. Where appropriate, You agree to obtain chain of custody certifications or accreditations in relation to environmental mitigation or impact reduction, e.g. Roundtable on Sustainable Palm Oil (RSPO).
- 28 **Health and Safety**
- 28.1 You shall ensure at all times that all Supplier Personnel comply with Our Site policies (including Our Haulier and Contractor Safety Policy) and all other health and safety policies and procedures from time to time in force at Our Site(s).
- 28.2 It is Your responsibility to ensure Supplier Personnel are familiar with Our site policies and procedures, that Supplier Personnel understand them and keep themselves up to date with the latest versions. The Haulier and Contractor Safety Policy and any updates will be available on the Company's website (<https://www.samworthbrothers.co.uk/>) and it is Your responsibility to check this regularly to ensure You are aware of the most up to date version. You will be fully responsible for any non-compliance and will be responsible for the acts and omissions of Supplier Personnel as though they were Your acts and omissions.
- 28.3 We reserve the right (amongst other rights) to remove anyone found to be in breach of Our health and safety policies and procedures from Our Site(s) and to prevent

further access to such Site(s) at Our discretion and to also fine You up to £5,000 (five thousand pounds). Any breach of Our health and safety or Site policies by You, or by Supplier Personnel, shall be deemed a material breach of these Conditions of Purchase. If any of the Supplier Personnel are removed from Our Site(s) this does not absolve You of Your obligations and You will still have to meet Your obligations by finding an alternative solution.

29 **General**

- 29.1 You shall comply with Applicable Laws.
- 29.2 Each Agreement will only confer rights and benefits on Us and You and no third party will acquire any rights or benefits under the Agreement or these Conditions of Purchase.
- 29.3 Any notice given under the Agreement must be in writing, addressed to the registered office or principal place of business of the addressee or any other address as may, at the relevant time, have been notified as the correct address for service of documents. Any notice must be delivered by hand or sent by first class (airmail if overseas) or by recorded delivery post. Notices may be sent by email and notice will be deemed to have been served at the time the email leaves the sender's server, provided no out of office or error message is produced and the email is sent during working hours on a Business Day. If the email is sent out of working hours and / or not on a Business Day, then notice will be deemed to have been served during working hours on the next Business Day following transmission.
- 29.4 Any waiver by Us of any breach of Agreement by You will not be treated as waiving any subsequent breach of the same or any other provision.
- 29.5 The Agreement and the documents referred to herein, set out the entire agreement between the Parties and supersede any previous agreements between the Parties relating to the subject matter of the Agreement. You acknowledge that in entering into the Agreement, You have not relied on any representation, warranty, agreement or statement not set out in the Agreement and that (in the absence of fraud) You will not have any right or remedy arising out of any such representation, warranty, agreement or statement and that Your only remedy for breach of this clause 29.5 is for breach of contract.
- 29.6 If any provision of the Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions and the remainder of the affected provisions will remain enforceable.
- 29.7 Except as set out in the Agreement, no variation of the Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by each of the parties.
- 29.8 Where You are aware expressly or by implication that the Goods or Services are required to enable Us to fulfil a Agreement with a specific customer, this Agreement will be deemed to be made subject to the Agreement between Us and Our customer.
- 29.9 The construction, validity and performance of the Agreement is governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

Signed agreement to the above terms on behalf of the Supplier:

Name: .....

Position: .....

Signature: .....

Date: .....