



**BURTON'S  
BISCUIT CO**

## FOX'S BURTON'S COMPANIES International Standard Terms and Conditions of Supply

### 1. INTERPRETATION

#### 1.1. In these Conditions:

**"Branded Goods"** means Goods that are labelled with, or that use packaging bearing, those brands, logos, artwork and IP Rights owned or created by the Seller and which are not Own-Label Goods.

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

**"Buyer"** the legal person or firm purchasing the Goods from the Seller;

**"Code"** means the Groceries Supply Code of Practice as set out in the GSCOP Order, applicable if the Buyers based in the territory of the United Kingdom

**"Conditions"** means these standard terms and conditions of supply set out in this document and any special terms and conditions specifically agreed in Writing between the Buyer and the Seller from time to time;

**"Confidential Information"** means any correspondence entered into between the Seller and the Buyer, the Seller's current and future business plans and strategies, pricing, specifications, recipes and all other information relating or belonging to the Seller or any member of the Seller's Group.

**"Contract"** means any agreement between the Seller and the Buyer for the sale and purchase of the Goods incorporating these Conditions.)

**"Force Majeure Event"** has the meaning given in clause 8.7;

**"Goods"** means the goods (including any instalment of the goods or any parts for them) which the Seller supplies to the Buyer;

**"GSCOP Order"** means the Groceries (Supply Chain Practices) Market Investigation Order 2009 applicable if the Buyer is based in the territory of the United Kingdom;

**"IP Rights"** means all patents, rights to inventions, rights in and to printing plates and die tooling, 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.  
**Intellectual Property Right** means any one of the Intellectual Property Rights;

**"Own-Label Goods"** means Goods that are labelled with, or that use packaging bearing, those brands, logos, artwork and IP Rights owned by the Buyer and which are not "Branded Goods";

**"Seller"** means Fox's Burton's Companies – Fox's Biscuits Limited and/or Burton's Foods Limited;

**"Writing"** includes written letter, facsimile, transmission and comparable means of communication.

1.2. Any reference in these Conditions to any provision of a statute shall be construed

as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4. Any phrase introduced by the terms including, in particular, such as or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### 2. BASIS OF THE SALE

2.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

2.2. Unless expressly agreed in Writing by the Seller, any terms and conditions of the Buyer which are purported to apply to the Contract shall be of no effect and the Seller does not agree to them (whether such terms and conditions are implied by custom, practice, course of trading or are the Buyer's standard terms).

2.3. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.4. The Contract constitutes the entire agreement between the parties. The Seller's employees or agents are not



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authorised to make any representations concerning the Goods unless confirmed by an authorised representative of the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claims for breach of, any such representations that are not so confirmed.

- 2.5. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which was not so confirmed
- 2.6. Any samples, drawings, descriptive matter, or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.7. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 2.8. In the event that the Buyer is a Designated Retailer (as that term is defined in the GSCOP Order), the Conditions shall incorporate the terms of the GSCOP Order in full and the Buyer unconditionally and irrevocably represents, warrants and undertakes that it shall fully comply with the terms of the GSCOP Order and the Code. The GSCOP applies to the Buyer based in the territory of the United Kingdom.
- 2.9. The Seller shall be under no obligation to comply with any policies or procedures

of the Buyer unless they have been expressly agreed in Writing by the Seller.

### 3. ORDERS AND SPECIFICATIONS

- 3.1. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative, and such acceptance shall be deemed to incorporate these Conditions.
- 3.2. The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 3.3. Where the Buyer requires any changes to a specification for Own-Label Goods after it has made an order for the same, any such changes shall (a) be subject to the agreement of the Seller and (b) be subject to such additional costs and expenses as are incurred by the Seller in giving effect to such changes and which the Seller shall be entitled to charge the Buyer.
- 3.4. Subject to clause 11.1, to the extent that the Goods are to be produced to a specification or incorporate packaging and artwork proposed by the Buyer, the Buyer shall indemnify the Seller against all loss (including any direct, indirect or consequential losses, loss of profits, loss of reputation and all interest, penalties and legal and other professional costs and expenses), liabilities, damages, costs and expenses awarded against or incurred by the Seller in connection with any claim for actual or alleged infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's manufacture, use and sale of Goods incorporating such specification, packaging or artwork. This clause 3.4 shall survive termination of the Contract.

- 3.5. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety, regulatory or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 3.6. No order which has been accepted by the Seller may be subsequently cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation. The Seller agrees to take reasonable steps to mitigate any losses that it might suffer by reason of the cancellation of any order.
- 3.7. If agreed between the Parties, The Buyer needs to provide the Seller with forecasts of its requirements for Goods, then the Buyer shall provide such forecasts in good faith. Such forecast will be treated by the Seller as a minimum binding quantity ("**Minimum Binding Quantity**"), as it will adjust its production accordingly. In no case the Buyer can refuse to buy the Minimum Binding Quantity
- 3.8. The Seller shall be entitled to rely on such forecasts and in the event such forecasts have been prepared negligently and without due care and attention, the Buyer shall be liable to the Seller for the Seller's reasonable and direct costs and expenses incurred by the Seller by reason of relying on the Buyer's forecasts where such forecasts are materially incorrect.
- 3.9. If the Buyer has consistently ordered Goods over a reasonable period of time (which shall be for at least 6 months), the Buyer may only significantly decrease its purchase of the Goods by:



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- 3.9.1. giving reasonable prior notice to the Seller of the Buyer's intention to significantly reduce or cease orders for the Goods; and
- 3.9.2. providing reasons in Writing for its decision to significantly reduce or cease orders for the Goods.
- 4. PRICE OF THE GOODS**
- 4.1. The price of the Goods shall be the Seller's quoted price, or where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at date of manufacture of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply. All prices quoted are valid for 14 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 4.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3. Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance which shall be invoiced to the Buyer.
- 4.4. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.5. The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller, or a third party appointed by the Seller, before the due payment date.
- 5. TERMS OF PAYMENT**
- Save otherwise stated in the Order, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.1. Unless otherwise agreed between the parties in Writing, the Buyer shall pay the price of the Goods in full and in cleared funds within twenty eight (28) days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.2. The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part.
- 5.3. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:-
- 5.3.1. terminate the Contract or suspend any further deliveries to the Buyer;
- 5.3.2. appropriate any payment made by the Buyer to such goods (or the goods supplied under any other contract between the Buyer and Seller, or between the Buyer and any member of the Seller's Group) as the Seller may think fit (notwithstanding any purported allocation by the Buyer of any amount to particular invoice number); and
- In the event of non-payment on the due date by the buyer or a part thereof, a late payment interest of four (4)% per month will be automatically due and without formal notice, all month commenced being considered as due. In case of late payments, Seller reserves the right to suspend or cancel pending delivery of orders
- 6. DELIVERY**
- 6.1. A. Delivery of the Goods shall be made by the Seller either (a) delivering the Goods to the Buyer's nominated premises; or (b) making the Goods available for collection by the Buyer or the Buyer's authorised representatives. Except as expressly agreed in writing by the Seller in the sale contract, the goods are delivered according to the FCA ICC Incoterms (2020) for the European countries. With reference to extra European countries, the ICC Incoterms (2020)



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is agreed separately between the parties.

- 6.1. B The Buyer must give the Seller good and sufficient notice of any change to a delivery location or to the date and time when the Goods are to be delivered. The Buyer shall be liable for all the additional costs incurred by the Seller in accommodating (where it is reasonably able to do so) such changes.
- 6.2. Where the Goods need to be delivered outside of the UK, the Seller shall make the Goods available to the Buyer ex-works at a location in the UK agreed by the parties.
- 6.3. Any dates quoted for delivery on the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.4. Where delivery of the Goods is to be made by the Seller in bulk the Seller reserves the right to deliver up to 5% more or 5% less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.
- 6.5. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated or to cancel any other instalment.
- 6.6. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or

any other instructions that are relevant to the supply of the Goods or if this is caused by third parties fault (i.e transportation companies) .

- 6.7. If the Seller fails to deliver the Goods for any reason other than a Force Majeure Event or the Buyer's failure, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods in the relevant Contract.
- 6.8. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:-
- 6.8.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 6.8.2. sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price of the Goods under the Contract or charge the Buyer for any shortfall below the price of the Goods under the Contract.
- 6.10 Upon the Buyer's receipt or collection of the Goods (whichever is the earlier), the Buyer shall be responsible for providing the relevant facilities and storage necessary to ensure that the Goods are kept in good and merchantable condition.
- 6.11 The quantity and condition of the products is checked at the time of the loading by the Seller and if no

reservation note is made in the delivery note, the Seller is released from any of its responsibility. Should the container(s), used by the carrier's buyer, do not comply with the Seller's requirements and sanitary standards requested for the transportation of the food products, including but not limited to the sanitization of the container, odor free containers pest controls and temperature maintenance between 15° and 18° ("Seller loading requirements"), the Seller has the right to refuse the shipment of the goods. In addition, the Seller loading requirements implies that the containers needs to be rigid and sealed after the loading of the Seller's goods. 6.12 In case the Buyer does not respect the Seller loading requirements, as per above, the Seller will refuse the loading of the goods and it will inform the Buyer promptly.

## 7. RISK AND PROPERTY

- 7.1. Risk of damage to and loss of the Goods shall pass to the Buyer:-
- 7.1.1. In the case of Goods to be collected from the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
- 7.1.2. In the case of Goods to be delivered otherwise than at the Seller's premises, the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller or the Seller's representative has tendered delivery of the Goods.
- 7.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the title in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed



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to be sold by the Seller to the Buyer for which payment is then due.

7.3. Until such time as the title in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to re-sell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

7.4. Until such time as the title in the Goods passes to the Buyer, and provided the Goods are still in existence and have not been re-sold, the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any right or remedy of the Seller) shall be deemed immediately due and payable.

## 8. WARRANTIES AND LIABILITY

8.1. The Seller warrants that the Goods will correspond with any agreed specification and be manufactured in accordance with the laws of England relating to the Goods of their specific type.

8.2. Except as expressly provided in these Conditions all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.3. Where the Goods are found to be contaminated and not fit for human consumption by reason of the Seller's negligence ("Contaminated Goods"), the Seller may request the Buyer to assist it in the removal of such Goods from sale. The Buyer shall provide such reasonable support and assistance as is required by the Seller.

8.4. The Seller agrees to be liable and responsible for the direct cost and expense of removing Contaminated Goods from sale, but shall not be responsible for any loss of profit, loss of goodwill, loss of trade or any other similar such loss. To the extent that the Buyer has already paid the Seller for Contaminated Goods, the Seller shall refund the Buyer for the cost of purchase of such Contaminated Goods. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the agreed specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days of the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 3 days after discovery of the defect or failure and in any case no later than 20 calendar days from the delivery. If the Buyer does not notify the Seller accordingly the Seller shall have no liability for such defect or failure. Under no circumstances may payments be suspended or compensated except with Seller's express written and prior agreement.

8.5. Where any valid claim (ie a claim in accordance with clause 8.5 above) is notified to the Seller, the Seller shall be entitled to replace or repair the Goods free of charge or, at the Seller's sole

discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

8.6. The Seller's total liability to the Buyer (except in respect of liability which can not be limited or excluded at law such as death caused by the Seller's negligence) shall in no circumstances exceed the total price of the Goods under the Order to which the claim relates.

8.7. Except in respect of death or personal injury caused by the Seller's negligence, fraudulent misrepresentation or any liability imposed upon the Seller under Part 1 of the Consumer Protection Act 1987, the Seller shall not be liable to the Buyer whether in contract, tort (including negligence), breach of statutory duty, or otherwise, by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise) costs, expenses or other claims or consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or re-sale by the Buyer.

8.8. The Buyer shall comply with all laws, rules and regulations applicable to the resale of the Goods and shall indemnify the Seller from and against all losses, costs (including without limitation all legal expenses) claims and causes of action suffered by, incurred by or made upon the Seller arising out of the re-sale of the Goods by the Buyer. For sake of clarity, the Seller is responsible for the compliance of the Goods in accordance with the law of England and Wales.

8.9. The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any



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- of the Seller's obligations in relation to the Goods, if the delay or failure was due to a Force Majeure Event. A **Force Majeure Event** shall mean any cause beyond the Seller's reasonable control including but not limited to:-
- 8.9.1. Act of god, explosion, flood, collapse of building structure, epidemic or accident;
  - 8.9.2. War or threat of war, terrorism sabotage, insurrection, riot, civil disturbance or requisition;
  - 8.9.3. Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government, parliamentary or local authority;
  - 8.9.4. Import or export regulations or embargoes;
  - 8.9.5. Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
  - 8.9.6. Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
  - 8.9.7. Power failure or breakdown of plant or machinery;
  - 8.9.8. Default of the Seller's suppliers or sub-contractors;
  - 8.9.9. Nuclear, chemical or biological contamination.
- 8.11 The Buyer shall be responsible and liable for the cost of all Goods which become unfit for sale (except where the reason for them becoming unfit for sale is solely due to the Seller's negligence in the manufacture of the Goods and in which event the Seller shall refund the cost of the Goods which are not fit for sale);
- 8.12 Unless expressly agreed in writing by the Seller, the Seller shall have no liability for:
- 8.12.1 Visits by the Buyer's employees and representatives to premises utilised by the Seller ;
  - 8.12.2 Artwork or packaging design;
  - 8.12.3 Consumer or market research;
  - 8.12.4 Opening or refurbishing of a store;
  - 8.12.5 Consumer complaint handling;
  - 8.12.6 Hospitality for the Buyer's employees;
  - 8.12.7 the Buyer losing Goods, any stolen Goods whilst Goods are at the Buyer's risk or any similar such loss of Goods;
  - 8.12.8 Administration fees.
9. **INSOLVENCY OF BUYER**
- 9.1. This Condition 9 applies if:-
- 9.1.1. The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction); or
  - 9.1.2. An encumbrancer takes possession, or a receiver if appointed, of any of the property or assets of the Buyer; or
  - 9.1.3. The Buyer ceases, or threatens to cease, to carry on the business; or
  - 9.1.4. The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 9.2. If this Condition 9 applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to immediately terminate the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall be deemed immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
10. **TERMINATION**
- 10.1. On termination of the Contract for any reason:-
- 10.1.1. the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately upon receipt;
  - 10.1.2. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination 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
  - 10.1.3. clauses which expressly or by implication have effect after termination shall continue in full force and effect.
11. **GENERAL**
- 11.1. The Buyer unconditionally acknowledges and accepts that:
- 11.1.1. (subject to clause 11.2) all IP Rights in the Goods, whether arising in the course of



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manufacturing the Goods or otherwise, shall solely belong and vest in the Seller to the fullest extent permitted by law; and

- 11.1.2. all IP Rights in any text, artwork, promotional materials and packaging used by the Seller in its Branded Goods shall solely belong and vest in the Seller to the fullest permitted law.

11.2. The Seller acknowledges and accepts that all IP Rights in artwork and packaging that are:

- (i) used on Own-Label Goods; and
- (ii) directly provided to the Seller by the Buyer; or
- (iii) specified and commissioned by the Buyer independently and without reference to the Seller

shall solely belong and vest in the Buyer to the fullest extent permitted by law and the Seller shall be granted a non-exclusive revocable licence to use such artwork and packaging including any trade marks of the Buyer for the sole purpose of supplying Own-Label pursuant to the Contract.

11.3. The parties acknowledge and agree that damages alone may not be an adequate remedy for breach or infringement of the other party's IP Rights. Accordingly, without prejudice to any other rights or remedies it may have, each party reserves its right to seek injunctive relief concerning any threatened or actual breach of contract or infringement of such IP Rights and to claim damages or an account of profits together with full recovery of all legal costs and expenses incurred.

11.4. The Seller agrees that the Buyer may, on reasonable prior notice, audit the Seller's

locations used in the supply of the Goods to the Buyer for the purpose of reviewing the Seller's methods of manufacture provided always that the Buyer shall be responsible for the costs of undertaking such audit and the Buyer shall co-operate with the Seller so as not to interrupt the Seller's business operations.

11.5. The Buyer and the Seller hereby mutually undertake and agree with the other at all times hereafter to keep this Agreement and its contents and information relating to it in the strictest confidence and not to disclose it or any Confidential Information to any other person.

11.6. The Seller agrees to have and maintain adequate insurance including public and product liability insurance with an indemnity limit of at least £5,000,000.

11.7. The Seller is the relevant member of the Seller's Group actually manufacturing the Goods. Any member of the Seller's Group may exercise any rights of any member of the Seller's Group.

11.8 The relationship between the Seller and the Buyer will be that of an independent contractor. The Buyer will have no authority to hold itself out as an agent of the Seller and will not make any statements, representations or commitments of any kind or take any other action which will be binding upon the Seller without the Seller's prior consent in Writing.

11.9 The Seller may at any time assign, transfer, charge, or deal in any other manner with all or any of its rights or obligations under the Contract.

11.10 The Seller shall be entitled to subcontract the provision of the Goods and nothing in any Contract shall oblige the Seller to use any provider of goods or services nominated by the Buyer unless the Seller has expressly agreed to the same in writing.

11.11 The Buyer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under these Conditions without the prior written consent of the Seller

11.12 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

11.13 Any dispute to which the GSCOP Order applies shall be exclusively dealt with in accordance with the dispute resolution scheme set out in Article 11 of the GSCOP Order in the event that the parties are unable to agree the same.

11.14 If any provision of these Conditions is held by any authority to be invalid, illegal or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.

11.15 A waiver of any right or remedy under these Conditions is only effective if given in Writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under these Conditions 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.

11.16 Each party undertakes to comply, during the execution of these Conditions with the laws and regulations in force regarding protection of personal data, and any



relevant provisions of national law implementing it, and also ensures compliance with these rules by its staff, agents, representatives and subcontractors. Furthermore, each party commits to have taken all appropriate and sufficient organizational, technical and security measures to prevent any loss, theft, misuse, unauthorized access and/or unlawful processing of any personal data. In the event of loss, theft, improper use, unauthorized access or unlawful processing, each party undertakes to immediately notify the other party and to provide the other party with all necessary assistance so that it is able to remedy this incident, and to take all appropriate measures to comply with data protection legislation in force, including but not limited to notification obligations. In any case, neither party will assume responsibility for a breach of the other party's legal obligations with regard to the protection of personal data.

11.16 The Contract and these Conditions shall be governed by the laws of England and the Buyer submits to the exclusive jurisdiction of the English Courts.

**Buyer's full**

**corporate name:** .....

**Signed for and on behalf**

**of the Buyer:** .....

**Name of**

**Signatory:** .....

**Date:** .....