

PURCHASE TERMS

1. APPLICATION OF PURCHASE TERMS

Unless otherwise agreed in writing by GF (including in any formal supply agreement entered into by GF and the Supplier):

- (a) these Purchase Terms (as varied from time to time) will govern the purchase of the Products by GF from the Supplier; and
- (b) if there is any inconsistency between the provisions of these Purchase Terms and those of any document of the Supplier (whether expressly referred to in, or to be implied from, these Purchase Terms or otherwise), the provisions of these Purchase Terms prevail to the extent of such inconsistency.

2. DEFINITIONS

In these Purchase Terms:

"Adjustment Event" has the meaning given in section 195-1 of the GST Act;

"Adjustment Note" has the meaning given in section 195-1 of the GST Act;

"Delivery Date" means the delivery date of the Products specified in the Order;

"Delivery Location" means the location for delivery specified in the Order;

"GF" means the entity from the Goodman Fielder Group which issues an Order;

"Goodman Fielder Group" means all entities which are direct or indirect subsidiaries of Wilmar GF Singapore Holdings Pte. Ltd., including Goodman Fielder Pty Limited, Quality Bakers Australia Pty Limited, Goodman Fielder Consumer Foods Pty Limited, and GF Services Company Pty Limited;

"GST" means goods and services tax and has the same meaning given in section 195-1 of the GST Act;

"GST Act" is a reference to A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended;

"Intellectual Property Rights" means any and all intellectual property rights including without limitation trade marks, trade names, copyright, patents, designs, business names, brands, logos, inventions, Specifications, formulations, confidential information, trade secrets and know how, whether or not registered or registrable anywhere in the world;

"Order" means any purchase order or any other document which confirms GF's intention to purchase the Products from the Supplier, issued by GF to the Supplier;

"Parties" means GF and the Supplier, and **"Party"** means GF or the Supplier;

"Products" means the goods and/or services specified in the Order for supply by the Supplier to GF;

"Specifications" means all specifications provided by GF or agreed to by the Supplier in relation to the Products, including those provided prior to the date of these Purchase Terms and/or the date of the applicable Order;

"Supplier" means the person or entity specified as the supplier in the Order;

"Taxable Supply" has the meaning given in section 195-1 of the GST Act; and

"Tools" means dies, tools, gauges, fixtures, drawings, printings, plates or stereotypes, plans, specifications and like matter either purchased outright by GF under the Order, prepared at the request of GF under the Order, or for which the cost is included in the unit cost of the Products.

3. BASIS OF SUPPLY

Except as otherwise expressly agreed in writing signed by both the Supplier and GF, the Order is an offer to purchase the Products by GF to the Supplier which is accepted by the Supplier upon the Supplier commencing work or supply under it or preparing for such work or supply (when communicated to GF). Upon the Supplier's acceptance of the Order, a valid, enforceable and binding contract is

formed between GF and the Supplier which terms and conditions comprise (i) these Purchase Terms and (ii) the terms and conditions of the applicable Order ("**Contract**"). The Contract comprises and constitutes the sole and exclusive agreement between the Parties with respect to the Products and the Parties agree that any other terms and conditions of the Supplier (including any terms and conditions in any quotation, acknowledgement or any other document or communication issued by the Supplier or any terms stated by the Supplier in accepting or acknowledging the Order) shall have no legal effect and shall not operate to amend the terms of the Contract. Upon acceptance of the Order, the Supplier must supply the Products to GF on the terms of the Contract. No cancellation or variation of the Order by the Supplier will be binding on GF unless accepted by GF in writing. The Contract will expire once all of the applicable Products are fully supplied to GF or otherwise when terminated by either party in accordance with the terms of this Contract.

4. PRICES

The prices set out in the Order are on a free into store (FIS) basis and are fixed and firm unless otherwise indicated in the Order, and includes: (a) any taxes, duties or levies (including customs duty) which may be payable in respect of the Order, but excluding GST; and (b) any applicable delivery charges, packaging, insurance, loading, unloading and storage costs in respect of the Products. A variation to those prices will only be effective if expressly agreed to in writing by GF. If the price is not stated in the Order, the Products must be billed by the Supplier at the price last quoted to or paid by GF or at the prevailing market price for the same Products sold in comparable quantity, whichever is lower.

5. DELIVERY

The Products must be delivered to GF free into store (FIS) on the Delivery Date at the Delivery Location unless otherwise agreed by the Parties in writing and, if applicable to the nature of the Products, must be delivered on good clean pallets or containers and at the correct temperature. GF may cancel the Order or any part thereof without any liability at any time prior to the Delivery Date. If at any time it appears to the Supplier that it will be unable to deliver the Products to GF on or by the Delivery Date, it must immediately advise GF of the reasons for such non-delivery and the proposed new delivery date. GF may (in its absolute discretion) accept, reject or negotiate the proposed new delivery date, and any agreed new delivery date will be treated as the Delivery Date. The Products must be delivered at the time specified in the Order or, if no time is so specified, between the hours of 8:00am to 4:00pm Monday to Friday.

6. ACCEPTANCE

GF will not accept delivery of the Products if they are not accompanied by correct delivery dockets as specified in clause 8(b) below quoting GF's Order number for such Products.

If any Products: (a) do not conform with the Specifications; (b) contain faults and/or defects; (c) do not meet the applicable quality or other standards; (d) do not meet applicable laws or regulations; (e) do not comply with the applicable Order; and/or (f) do not conform with the Supplier's warranties set out in clause 10 (collectively, "**Non-Conforming Products**"), and if GF requires the Supplier to do so, the Supplier must, at the Supplier's cost, promptly remove any Non-Conforming Products from GF's premises. If the Supplier fails to remove any Non-Conforming Products, GF may arrange for their return and the Supplier must pay GF for all transportation charges for shipments to and from the Delivery Location and for all charges for labour, reloading, transportation and incidental expenses in relation thereto. GF will not be required to pay for any Non-Conforming Products. Without limiting any other remedy GF may have, the Supplier must, at GF's election either:

- a) promptly replace any Non-Conforming Products with Products

- which conform with the warranties set out in clause 10; or
- b) refund to GF all money paid in respect of any Non-Conforming Products.

GF's acceptance of delivery does not release the Supplier from any liability for faults or defects in or in relation to the Products including any issues as to the quantity or quality of the Products.

7. RISK AND TITLE IN GOODS

Title in and to the Products will pass to GF upon delivery of the Products to the Delivery Location. Risk in and to the Products will pass to GF according to the relevant Incoterms specified in the Order, or, if no Incoterms is specified in the Order, upon delivery of the Products to the Delivery Location.

8. PAYMENT AND DELIVERY DOCUMENTATION

- a) Unless otherwise agreed in writing between the Parties, GF will pay for each correctly rendered invoice or statement within 30 days from the end of the month in which the invoice is received. Payment will be deemed to have been made when GF instructs its bank to credit the Supplier's bank account as provided to GF in writing (including, without limitation, through the "Vendor Request Form"). GF will not be responsible for any delays in payment or errors due to factors outside the reasonable control of GF including, without limitation, delays or errors in the banking system.
- b) All the Supplier's invoices, packing slips, documents and/or correspondence relating to the Products must bear GF's order number specified in the Order. All invoices must be addressed to the invoicing address specified in the Order (if any is specified) or otherwise the Delivery Location. All invoices must also be in an approved format as set out in section 29-70 of the GST Act and must contain: (i) a description of the Products; (ii) the quantity of the Products in bulk, weight or number; (iii) the Australian Business Number (ABN) or other registered GST number of the Supplier; (iv) the GST inclusive price; and (v) the amount of any GST charged shown as a separate item.
- c) Where the requirement of a certificate of analysis is specified in the Order, the Products must be accompanied by such certificate on their delivery to GF.
- d) Where the Products must be accompanied by a material safety data sheet ("MSDS"), the Supplier must provide the MSDS to GF on delivery at the Delivery Location and, whenever the MSDS is revised, must provide copies of the revised MSDS to GF.

9. GOODS AND SERVICES TAX

- a) If GST is imposed on any Taxable Supply made by the Supplier in connection with the supply of the Products to GF, then, to the extent that any consideration payable or to be provided by GF to the Supplier for the Taxable Supply is exclusive of GST, then GF must pay to the Supplier, in addition to that GST-exclusive consideration (and at the same time that the GST-exclusive consideration is payable), an additional amount for GST in respect of such Taxable Supply calculated by multiplying the prevailing GST rate by the GST-exclusive consideration for such Taxable Supply, without any deduction or set-off.
- b) If GF determines, on reasonable grounds, that the amount of GST imposed in respect of any Taxable Supply differs for any reason from the amount of GST included in the price, the amount of GST payable by GF shall be adjusted accordingly and the Supplier shall provide a refund of any overpayment to GF. Where an Adjustment Event in relation to any taxable supply has occurred, the Supplier must issue an Adjustment Note that contains the prescribed information required by GST Law within 28 days.
- c) Unless otherwise agreed in writing by the Parties, the Supplier will be registered for GST purposes and must notify GF of its ABN and of any modifications to its ABN registration status.

10. WARRANTIES

- a) The Supplier represents and warrants that each of the Products:
- (i) complies with all Specifications and/or other requirements stipulated by GF;
 - (ii) does not infringe any Intellectual Property Rights of a third party (including without limitation through their sale or use);
 - (iii) is, and will remain, of good and merchantable quality and free from all defects;
 - (iv) is fit for GF's purposes as notified to the Supplier;
 - (v) is fit for all purposes for which the Products are commonly used;
 - (vi) corresponds with any description or sample which the Supplier has previously provided to GF;
 - (vii) complies with all applicable laws and all statutory, government, regulatory and administrative requirements and conditions, including without limitation in relation to: (i) the safety, manufacture, packaging, packing, labelling, transportation, importation, storage, delivery and sale of the Products; and (ii) the nature, substance, quality, weight and measurement of the Products;
 - (viii) is free from all encumbrances such that GF will enjoy quiet possession of the Products; and
 - (ix) which comprises food or is to be incorporated into food products:
 - a. complies in all respects with the provisions of any applicable laws, statutes, standards, rules and regulations relating to health, pure food weights and measures in Australia;
 - b. will be fit for human consumption and is not adulterated or contaminated in any way;
 - c. does not comprise, and is not derived from, any genetically modified organisms or products, except to the extent agreed by GF; and
 - d. will have at least 85% of its standard shelf life remaining on delivery to GF.
- b) In relation to any Products which are services, the Supplier represents and warrants that such services will:
- (i) be performed by appropriately qualified and trained personnel;
 - (ii) be performed with all due care and skill; and
 - (iii) comply with all directives and orders given by GF's representatives and/or procedures communicated by GF to the Supplier.

11. LIABILITY AND INDEMNITY

- a) Without limiting any of GF's other legal rights, the Supplier indemnifies GF, its related bodies corporate, and its officers, employees and agents (collectively, "**Indemnified Parties**"), from and against any loss, damage, claim, action or expense (including, without limitation, legal expenses) which the Indemnified Parties incur or suffer in connection with any of the following:
- (i) a breach of these Purchase Terms by the Supplier;
 - (ii) any representation or warranty given by the Supplier which is incorrect or misleading in any way;
 - (iii) any product liability claim or product recall relating to the Products;
 - (iv) any death or injury to any person, or any loss or damage to any real or personal property of GF or a third party, which is caused by the negligent act or omission of the Supplier or any of its employees, agents, officers or contractors; and/or
 - (v) any negligence or wilful misconduct (whether by act or omission) by or on the part of the Supplier or any of the Supplier's employees, agents, officers or contractors.
- b) This clause 11 survives termination or expiration of the Contract.

12. PACKING AND CONTAINERS

GF will make no payment or deposit for the packing of, boxing of, crating of, or containers for the Products, unless otherwise expressly agreed by GF in the Order.

13. TOOLS

All Tools are the property of GF unless otherwise agreed in writing by GF, and are to be immediately delivered to GF on request. The Supplier may not, without first obtaining GF's written permission, use any of the Tools to manufacture articles for any third party, notwithstanding that the Supplier ceases to manufacture the Products or supply the Products to GF.

14. INTELLECTUAL PROPERTY

- a) All Intellectual Property Rights owned by GF remains and will remain the property of GF. The Supplier does not obtain any right, title or interest in or to such Intellectual Property Rights.
- b) If any of the Products have been specifically designed, customised, created or formulated for GF (the "**Customised Products**"), GF shall own all Intellectual Property Rights in and in relation to the Customised Products.

15. CONFIDENTIALITY

- a) The Supplier must treat as confidential all of the following information:
 - (i) the Order;
 - (ii) the Specifications;
 - (iii) the Goodman Fielder Group's strategies, commercial information, projects, plans, customer lists, client lists, and financial information; and
 - (iv) all other information which GF provides to the Supplier or which otherwise originates from GF which is of a confidential nature (collectively, "**Confidential Information**"), and must not, without the prior written consent of GF, disclose, use or copy (or cause or allow to be disclosed, used or copied) any Confidential Information except as permitted under clause 15(c).
- b) The Supplier warrants and undertakes to protect GF's interests in relation to any Confidential Information in the Supplier's control or possession.
- c) The Supplier may only use Confidential Information for the sole purpose of fulfilling its obligations to supply the Products to GF pursuant to an Order, and for no other purposes, and only to the extent necessary for doing so.
- d) The obligations set out in this clause 15 survive termination or expiration of the Contract.

16. TERMINATION

Without prejudice to GF's general law rights to terminate the

Contract, GF may terminate the Contract (in whole or in part as GF may determine in its sole discretion) by immediate notice in writing to the Supplier if:

- (a) the Supplier informs anyone it is insolvent or becomes subject to any official management, receivership, liquidation, voluntary administration, winding-up or other external administration;
- (b) the Supplier commits a material breach of the Contract which is not capable of remedy; and/or
- (c) the Supplier commits a material breach of the Contract which is capable of remedy and the Supplier fails to remedy the breach within 7 days after being required in writing to do so.

Termination of the Contract does not affect any accrued rights or remedies of a Party.

17. GENERAL

- a) Time is of the essence in the Contract.
- b) The Supplier must not subcontract or assign the whole or any part of its rights or obligations under the Contract without the prior written consent of GF. If the Supplier subcontracts any part of its rights or obligations, then:
 - (i) The Supplier is responsible for acts and omissions of the subcontractors;
 - (ii) All obligations of the Supplier under the Contract which have been subcontracted to a subcontractor shall be deemed to have been performed by the Supplier, and GF may claim against the Supplier for any losses or damages, or any breach of the Contract, in relation to such obligations; and
 - (iii) Matters within the control of the subcontractors are deemed to be within the control of the Supplier.
- c) The Supplier shall effect and maintain public liability, product liability and motor vehicle insurance (as appropriate in the circumstances), on reasonable terms considered to be commercially prudent in the circumstances that cover the supply of the Products.
- d) GF may set off, from any payment claimed by the Supplier under the Contract or otherwise, any amount claimed by GF from the Supplier whether under the Contract or otherwise.
- e) The non-exercise of or delay in exercising any power or right of GF does not operate as a waiver of that power or right. A power or right of GF may only be waived in writing, signed by GF.
- f) Any provision of these Purchase Terms which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make the Contract enforceable.
- g) The Contract is governed by and is to be construed in accordance with the laws applying from time to time in the State of New South Wales and the Supplier hereby submits to the jurisdiction of the courts having the jurisdiction in New South Wales.