

PIONEER FOODS (UK) LIMITED

TERMS AND CONDITIONS OF PURCHASE

1. ABOUT US

1.1 **Company details.** Pioneer Foods (UK) Ltd (company number 04080435) (**we** and **us**), is a company registered in England and Wales and our registered office and main trading address is at 40 Bradfield Road, Finedon Road Industrial, Wellingborough NN8 4HB. We operate the trading website www.pioneer-foods-uk.com

1.2 **Contacting us.** To contact us either visit or post a letter to our trading address, telephone our purchasing team at 01933 229139 or email accounts@pioneer-foods-uk.com. How to give us formal notice of any matter under the Contract is set out in clause 16.2.

2. OUR CONTRACT WITH YOU

2.1 **Our contract.** These terms and conditions (**Terms**) apply to any order by us and supply of goods by you to us (**Contract**). No other terms are implied by trade, custom, practice or course of dealing.

2.2 **Entire agreement.** The Contract is the entire agreement between us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

2.3 **Language.** These Terms and the Contract are made only in the English language.

3. PLACING AN ORDER AND ITS ACCEPTANCE

3.1 **Placing an order via email purchase order form or via the telephone.** An Order shall be deemed to be accepted on the earlier of: (i) you responding by email with a written acceptance of the Order; and (ii) you doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.

3.2 **Placing your order online.** Your acceptance of our Order takes place when you send an email or other communication or you do any act consistent with fulfilling the Order, at which point the Contract between you and us will come into existence.

4. **YOUR GOODS**

4.1 You shall ensure that the Goods shall:

4.1.1 correspond with their description;

4.1.2 comply with the product specification as set out in the Order or other agreed and signed documentation;

4.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by you or made known to us by you expressly or by implication, and in this respect we rely on your skill and judgement;

4.1.4 where they are manufactured products, be free from infestation, or defects in ingredients, substances, constituents, material and/or recipe, workmanship or production, and remain so for the duration of the product life (the product life being as agreed within the product specification; and

4.1.5 comply with all applicable statutory and regulatory requirements relating to the production, labelling, packaging, storage, handling and delivery of the Goods, including full traceability (where applicable).

4.2 You shall ensure that at all times you have and maintain all the licences, permissions, authorisations, consents and permits that you need to carry out your obligations under the Contract.

4.3 We may inspect and test the Goods at any time following delivery. Any such inspection or testing shall not reduce or otherwise affect your obligations under the Contract or our ownership of the Goods.

4.4 If following such inspection or testing we consider that the Goods do not conform or are unlikely to comply with your undertakings at *clause 4.1*, we shall inform you and you shall immediately take such remedial action (at your cost) as is necessary to ensure compliance.

4.5 We may conduct further inspections and tests after you have carried out its remedial actions.

5. **RETURN AND REFUND FOR ONLINE PURCHASES**

5.1 If we have ordered our Goods via your website, we may cancel the Contract and receive a full refund.

6. **DELIVERY**

6.1 You will ensure that:

6.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

6.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods (including our SAP code number of the Goods, where applicable), the best before date and batch codes (if applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

6.1.3 if you require us to return any packaging material to you, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to you at your cost.

6.2 You must contact the delivery site address (as set out on the Order), using the phone number as provided for the relevant delivery site, in order to confirm a booking slot prior to delivery. Failure to book a delivery time may result in the delivery being rejected and any costs incurred by either party arising from such rejection will be the liability of the supplier.

6.3 You shall deliver the Goods on the agreed delivery date (the **Delivery Date**). Time shall be of the essence for delivery.

6.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location (or, if agreed, once the Goods have been collected by us).

6.5 If you:

6.5.1 deliver less than 95% of the quantity of Goods ordered, we may reject the Goods; or

6.5.2 deliver more than 105% of the quantity of Goods ordered, we may at our discretion reject the Goods or the excess Goods and any rejected Goods shall be returnable at your risk

and expense. If you deliver more or less than the quantity of Goods ordered, and we accept the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

6.6 You shall not deliver the Goods in instalments without our prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by you to deliver any one instalment on time or at all, or any defect in an instalment shall entitle us to the remedies set out in clause 7.

6.7 Where an Order for a particular quantity of Goods is accepted at an agreed price, then provided that we accept the full quantity of the Goods ordered, we can request delivery of such Order at the agreed price be delayed for a reasonable period of time to a date later than the agreed Delivery Date, following which delivery of the Goods will be delayed by such reasonable period and the later delivery date will be deemed to be the Delivery Date.

7. **REMEDIES**

7.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 4.1, then, without limiting any of our other rights or remedies, and whether or not it has accepted the Goods, we may exercise any one or more of the following remedies:

7.1.1 to terminate the Contract;

7.1.2 to reject the Goods (in whole or in part) and return them to you at your own risk and expense;

7.1.3 to require you to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

7.1.4 to refuse to accept any subsequent delivery of the Goods which you attempt to make;

7.1.5 to recover from you any costs incurred by us in obtaining substitute goods from a third party; and

7.1.6 to claim damages for any other costs, loss or expenses incurred by us which are in any way attributable to your failure to carry out your obligations under the Contract.

7.2 If the Goods are not delivered on the Delivery Date we may, at our option, claim or deduct a reasonable amount off the price of the Goods for each week's delay in delivery by way of liquidated damages, including deduction to cover any consequential losses.

7.3 These Conditions shall apply to any replacement Goods supplied by you.

7.4 Our rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

8. **PRICE OF GOODS AND DELIVERY CHARGES**

8.1 The prices of the Goods will be the price set out in the Order, or, if no price is quoted, the price set out in a written price confirmation issued by an authorised person

8.2 You may invoice us for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. You shall ensure that the invoice includes the date of the Order, the invoice number, our order number, the delivery note number(s), your VAT registration number and any supporting documents that we may reasonably require.

8.3 It is the responsibility of you to provide a proof of delivery/completion of service signed by our relevant staff member to support any invoices raised and failure to provide this is a valid reason for dispute of the invoice.

8.4 Unless otherwise agreed in writing we shall pay correctly rendered and undisputed invoices by the end of the month following the month of delivery unless alternative terms have been agreed in writing. Payment shall be made to the bank account nominated in writing by you. Such details must be on company headed paper and signed by a senior member of your Finance department.

8.5 If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 1% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.

8.6 We may at any time, without limiting any of our other rights or remedies, set off any liability of you to us against any liability of us to you.

8.7 The price of the Goods includes packaging, insurance, all applicable taxes and duties and delivery charges.

8.8 No extra charge shall be effective unless agreed in writing by us.

9. **INDEMNITY**

9.1 You shall keep us indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by us as a result of or in connection with:

9.1.1 any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of you're your employees, agents or subcontractors;

9.1.2 any claim made against us by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of you, your employees, agents or subcontractors; and

9.1.3 any claim made against us by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by you, your employees, agents or subcontractors.

9.2 This clause 9 shall survive termination of the Contract.

10. **INSURANCE**

10.1 During the term of the Contract and for a period of two (2) years thereafter, you shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, to a minimum of ten million pounds

sterling (GBP £10 Million) and 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.

11. CONFIDENTIALITY

11.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature 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 who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. 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.

11.2 This clause 11 shall survive termination of the Contract.

12. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

12.1 In performing your obligations under the Contract, you shall comply with all applicable laws, statutes, regulations and codes from time to time in force.

12.2 We may immediately terminate the Contract for any breach of this clause 12.

13. TITLE AND RISK

13.1 Title and risk in the Goods shall pass to us on completion of delivery.

14. TERMINATION

14.1 We may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving you written notice, whereupon you shall discontinue all work on the Contract. We shall pay you fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

- 14.2 Without limiting any of our other rights, we may terminate the Contract with immediate effect by giving written notice to you if:
- 14.2.1 you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 10 days of you being notified in writing to do so;
- 14.2.2 you take any step or action in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 14.2.3 you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or
- 14.2.4 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy.
- 14.3 Termination of the Contract shall not affect your or our rights and remedies that have accrued as at termination.
- 14.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
15. **EVENTS OUTSIDE OUR CONTROL**
- 15.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control, including, without limitation, technical interruptions, failure of utility supplies, war, terrorism, civil commotion, flood, fire, industrial action, strike, or other act of God (**Event Outside Our Control**).
- 15.2 If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:
- 15.2.1 we will contact you as soon as reasonably possible to notify you; and

15.2.2 our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Goods to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

16. **COMMUNICATIONS BETWEEN US**

16.1 When we refer to "in writing" in these Terms, this includes email.

16.2 Any notice or other communication given by one of us to the other under or in connection with the Contract must be in writing and be delivered personally, sent by pre-paid first class post or other next working day delivery service, or email.

16.3 A notice or other communication is deemed to have been received:

16.3.1 if delivered personally, on signature of a delivery receipt or at the time the notice is left at the registered office;

16.3.2 if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; or

16.3.3 if sent by email, at 9.00 am the next working day after transmission.

16.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

16.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

17. **GENERAL**

17.1 **Assignment and transfer.** We may assign or transfer our rights and obligations under the Contract to another entity. You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.

17.2 **Variation.** Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).

- 17.3 **Waiver.** If we do not insist that you perform any of your obligations under the Contract, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you or that you do not have to comply with those obligations. If we do waive any rights, we will only do so in writing, and that will not mean that we will automatically waive any right related to any later default by you.
- 17.4 **Policies.** By accepting an Order with us, you agree to observe and comply with the Pioneer Foods UK Modern Slavery Policy and the Pioneer Foods UK Anti-Bribery Policy, copies of which are available from our website or upon request. You further undertake to ensure that you are actively engaged in ensuring slavery does not exist within your supply chain. We subscribe to a whistle-blowing service and any instances of bribery or corruption that you are aware of within the supply chain should be notified to this service via 0808 234 0346
- 17.5 **Severance.** Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 17.6 **Third party rights.** The Contract is between you and us. No other person has any rights to enforce any of its terms.
- 17.7 **Governing law and jurisdiction.** This Contract is governed by English law and each party irrevocably agrees to submit all disputes arising out of or in connection with this Contract to the exclusive jurisdiction of the English courts.