



## **TERMS and CONDITIONS OF SALE (March 2026)**

### **1 Interpretation**

1.1 In these Terms:

1.2 “**SELLER**” means any **GERALD McDONALD GROUP** company.

1.3 “**BUYER**” means the person who accepts the Seller’s Written quotation for the sale of the Goods or whose Written order for the Goods is accepted by the Seller;

1.4 “**GOODS**” means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Terms;

1.5 “**CONTRACT**” means the contract for the sale and purchase of the Goods;

1.6 “**INCOTERMS**” means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made;

1.7 “**TERMS**” means the standard terms of sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Buyer and the Seller;

1.8 “**WRITING**”, and any similar expression, includes email and other electronic communications.

1.9 A reference in these Terms to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.10 The headings in these Terms are for convenience only and shall not affect their interpretation.

### **2 Basis of the Sale**

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with the Seller’s Written quotation (if accepted by the Buyer), or the Buyer’s Written order (if accepted by the Seller), subject in either case to these Terms, which shall govern the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

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



**2.3** 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 is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any claims as a result of such advice or recommendation.

**2.4** 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.

### **3 Orders and Specifications**

**3.1** All sales orders are confirmed by the issuance of a Sales Order. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until this Sales order is issued by the Seller.

**3.2** The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

**3.3** The quantity, quality and description of the Goods and any specification for them shall be as set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

**3.4** Unless otherwise stated, any specification, samples or details of Goods given by the Seller are intended only as a general indication of the nature of the Goods and the Seller shall not be liable for nor shall the Buyer be entitled to any other remedy on the ground of discrepancies between the same and the Goods supplied.

**3.5** If the Goods are to be manufactured or packaged or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of, any claim for 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 use of the Buyer's specification.

**3.6** No order which has been accepted by the Seller may be 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.



**3.7** Unless previously agreed in Writing, nothing in this Contract shall entitle the Buyer to acquire or claim any title in or in any intellectual property rights related to or used on or in connection with the Goods.

#### **4 Price**

**4.1** The price of the Goods shall be the Seller's quoted price which is exclusive of VAT.

**4.2** All prices quoted are valid subject to the final confirmation of the Seller.

**4.3** The Seller reserves the right, by giving Written 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, currency regulation, alteration of duties, significant increase in the costs 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.

**4.4** Unless otherwise stated, packaging is included in the price and is non-returnable.

#### **5 Payment**

**5.1** Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller may invoice the Buyer for the price of the Goods on or at any time after the goods have left the despatch location. 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.

**5.2** Unless special credit facilities have been expressly agreed in Writing, the Buyer shall pay the price of the Goods on the terms on the Sales Order. The time of payment of the price shall be of the essence of the Contract.

**5.3** If the Buyer fails to make any payment on the due date, then, without limiting any other right or remedy available to the Seller, the Seller may:

**5.3.1** suspend any further deliveries to the Buyer until paid; and/or

**5.3.2** treat the Contract as repudiated and terminated: and/or



**5.3.3** appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and/or

**5.3.4** re-sell any Goods not delivered; and/or

**5.3.5** charge the Buyer interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended) plus a £100.00 administration fee.

## **6 Delivery**

**6.1** Delivery of the Goods shall be made:

**6.1.1** by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection; or

**6.1.2** if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place; or

**6.1.3** (where the Contract is based on CIF or CFR terms) shipping documents are delivered to the Buyer's order;

**6.1.4** where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Seller shall be under no obligation under section 32(2) of the Sale of Goods Act 1979.

**6.2** Where delivery of the Goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 5 per cent more or 5 per cent less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

**6.3** 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 Terms 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.

**6.4** If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, 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.



**6.5** The Buyer shall only be entitled to cancel the Contract by giving notice to the Seller if the Goods are not delivered by the date falling 14 days after the date of delivery specified in the Contract with the Buyer.

**6.6** 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 limiting any other right or remedy available to the Seller, the Seller may:

**6.6.1** store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

**6.6.2** 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 under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## **7 Risk and Title**

**7.1** Risk of damage to or loss of the Goods shall pass to the Buyer:

**7.1.1** in the case of Goods to be delivered at 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, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

**7.2** Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms, the property in the Goods shall not pass to the Buyer until the Seller has received in cleared funds payment in full of the price of the Goods (plus VAT) and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

**7.3** Until such time as the property 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, insured and identified as the Seller's property, but the Buyer may resell or use the Goods in the ordinary course of its business.

**7.4** Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller may at any time require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, enter on 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 moneys owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

## **8 Warranties and Liability**

**8.1** The Seller warrants that the Goods will be free from defects in material and workmanship upon delivery or within tolerances as detailed in the specification

**8.2** The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.

**8.3** The Buyer shall be responsible for ensuring that the Goods are fit for any purpose for which the Buyer requires them.

**8.4** Unless the Buyer gives precise information as to the storage conditions, use and recipe to which the Goods will be used, and the test method details by which they will be analysed, the Seller does not make or give, nor has any servant or agent of the Seller authority to make or give, any representation or undertaking as to the Goods or their fitness for any particular purpose. The Seller will be given the right of access to examine processes, storage facilities and QC procedures and laboratories.

**8.5** The Seller shall not be under any liability for variation in the nature or quality of the Goods caused by the passage of time or the elements after delivery or if the Goods deteriorate because of improper or excessive handling or storage after delivery.

**8.6** A claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 14 days from the date of delivery. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

**8.7** Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Terms such claim shall only be valid if at the request of the Seller the Goods are returned to the Seller in their original state and packaging. The Seller may replace the Goods (or the part in question) 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), in which case the Seller shall have no further liability to the Buyer.



**8.8** The Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (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 (including any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Terms.

## **9 Force Majeure**

**9.1** If the Seller is unable to carry out in whole or part any Contract between the Seller and the Buyer as a result of or in connection with:-

- 9.1.1** Act of God, explosion, inclement weather, flood, tempest, fire or accident;
- 9.1.2** war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 9.1.3** acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 9.1.4** import or export regulations or embargoes;
- 9.1.5** strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- 9.1.6** crop failure, difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 9.1.7** delay of Goods becoming available to the Seller beyond the Seller's control;
- 9.1.8** Power failure or breakdown in machinery;
- 9.1.9** epidemic, pandemic, or government-mandated closures or restrictions;

**9.2** Either party may, by giving Written notice to the other, terminate, cancel or suspend the affected Contract. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate the Contract by giving 30 days' Written notice to the affected party.

**9.3** Such termination, cancellation or suspension shall not constitute a breach of obligation by the affected party, and neither party shall be liable to the other for any delay and/or damage caused by reason of such termination, cancellation or suspension and in the case of suspension, dates for delivery shall be deferred to take account of such suspension.



## **10 Insolvency of Buyer**

**10.1** This clause 10 applies if:

**10.1.1** the Buyer makes a composition or a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or a moratorium comes into force in respect of the Buyer (within the meaning of the Insolvency Act 1986); or

**10.1.2** an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

**10.1.3** execution or distress is levied against any of the Buyer's assets; or

**10.1.4** the Buyer ceases, or threatens to cease, to carry on business; or

**10.1.5** 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; or

**10.1.6** before delivery the Buyer commits a breach of these Terms in relation to any Contract with the Seller.

**10.2** If this clause applies then, without limiting any other right or remedy available to the Seller, the Seller may without any liability to the Buyer:

**10.2.1** suspend or withhold any further deliveries under the Contract until the full amount of the price of the Goods is paid to the Seller and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary; or

**10.2.2** may cancel any Contract forthwith by giving written notice to the Buyer.

## **11 Export Terms**

**11.1** Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Terms, but if there is any conflict between the provisions of Incoterms and these Terms, the latter shall prevail.

**11.2** Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in Writing between the Buyer and the Seller) apply notwithstanding any other provision of these Terms.

**11.3** The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.



**11.4** Unless otherwise agreed in Writing between the Buyer and the Seller, the Goods shall be delivered FOB the air or seaport of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

**11.5** The Seller may, at its discretion, permit the Buyer to arrange testing and inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection, and which are made after shipment, or in respect of any damage during transit.

**11.6** Unless otherwise required by the Seller, payment of all amounts due to the Seller shall be made according to the terms on the Sales Order.

## **12 Confidentiality**

**12.1** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, products, pricing, recipes, formulations, processes, customers, clients or suppliers of the other party, except as permitted by this clause.

**12.2** Each party may disclose the other party's confidential information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract, provided that the disclosing party ensures such persons comply with this clause.

**12.3** Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

## **13 Food Safety and Product Recall**

**13.1** In the event of a food safety incident or product recall affecting Goods supplied under this Contract, both parties shall cooperate fully and promptly to identify, contain and resolve the issue, including providing all reasonably necessary information, documentation and access to records.

**13.2** Each party shall notify the other immediately upon becoming aware of any food safety concern relating to the Goods.

**13.3** The costs of any product recall shall be borne by the party whose act or omission is established, following root cause analysis, to have caused the recall. Where root cause analysis does not conclusively establish fault, the parties shall discuss and agree a fair apportionment of costs.



## **14 Allergen Information**

**14.1** Allergen declarations provided by the Seller are based on information available at the time of supply. The Buyer is responsible for final product labelling, including allergen declarations, in accordance with applicable food labelling regulations.

**14.2** The Seller shall notify the Buyer promptly of any changes to allergen information relating to the Goods. The Buyer shall be responsible for ensuring that any allergen information provided by the Seller is accurately communicated to end consumers.

## **15 General**

**15.1** A notice required or permitted to be given by either party to the other under these Terms 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.

**15.2** No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

**15.3** If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

**15.4** Any dispute or question arising under or in connection with the Contract or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the London Chamber of Commerce, in accordance with the Arbitration Act 1996 as amended from time to time and the decision of such arbitrator shall be final and binding on the Seller and the Buyer.

**15.5** These conditions and each contract of sale of Goods between the Buyer and the Seller and all matters arising in connection therewith shall be governed by the laws of England and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.



## **TERMS and CONDITIONS OF PURCHASE (March 2026)**

### **1 Interpretation**

**1.1** In these Terms:

**1.2** "BUYER" means any **GERALD McDONALD GROUP** company.

**1.3** "CONTRACT" means the contract for the sale and purchase of the Goods

**1.4** "DELIVERY ADDRESS" means the address stated on the Order;

**1.5** "GOODS" means the goods (including any instalment of the goods or any part of them) described in the Order;

**1.6** "ORDER" means the Buyer's purchase order to which these Terms apply;

**1.7** "PRICE" means the price of the Goods;

**1.8** "SELLER" means the person who accepts the Buyer's Order or their principals.

**1.9** "SPECIFICATION" includes any information relating to the Goods;

**1.10** "TERMS" means the standard terms of purchase set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Buyer and the Seller;

**1.11** "WRITING", and any similar expression, includes email and other electronic communications.

**1.12** Any reference in these Terms to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

**1.13** The headings in these Terms are for convenience only and shall not affect their interpretation.

### **2 Basis of the Purchase**

**2.1** The Buyer shall purchase and the Seller shall sell the Goods subject to these Terms.

**2.2** These Terms shall apply to the Contract to the exclusion of any other terms on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Seller.

**2.3** The Buyer will consider that the Seller accepts the Order unless notification to the contrary is given by the Seller in Writing within seven days of its date.

**2.4** No variation to the Order or these Terms shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.



### **3 Specifications**

**3.1** The quantity, quality and description of the Goods shall, subject as provided in these Terms, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in Writing by the Buyer.

**3.2** Any Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Buyer, and the Seller assigns with full title guarantee to the Buyer all such copyright, design rights and other intellectual property for no further consideration, subject only to the payment of the Price. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.

**3.3** The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.

**3.4** The Seller shall not unreasonably refuse any request by the Buyer to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing at no cost to the Buyer.

**3.5** If as a result of inspection or testing the Buyer is not satisfied that the Goods will comply in all respects with the Contract, and the Buyer so informs the Seller, the Seller shall take such steps as are necessary to ensure compliance.

**3.6** The Goods shall be certified with a Certificate of Analysis authenticating the Goods and shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed, sealed and secured so as to reach their destination in an undamaged condition in the ordinary course of transit.

### **4 Price**

**4.1.1** the Price of the Goods shall be as stated in the Order and, unless otherwise so stated, shall be:

**4.1.2** exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT invoice); and

**4.1.3** inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or levies other than value added tax.

**4.1.4** no increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing.



**4.1.5** the Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms of sale.

## **5 Payment**

**5.1** The Seller may invoice the Buyer on or at any time after delivery of the Goods, as the case may be unless otherwise stated, and each invoice shall quote the number of the Order.

**5.2** Unless special payment terms have been expressly agreed in writing and/or unless otherwise stated in the Order, the Buyer shall pay the Price of the Goods at the terms indicated on the Purchase Order or Sales Contract.

**5.3** The Buyer may set off against the Price any sums owed to the Buyer by the Seller.

## **6 Documents.**

**6.1** See Appendix A.

## **7 Anti-Slavery and Human Trafficking Legislation and Policies.**

**7.1** See Appendix B.

## **8 Brexit**

**8.1** See Appendix C.

## **9 Delivery**

**9.1** The Goods shall be delivered to the Delivery Address on the date or within the period stated in the Order or call off Order, in either case during the Buyer's usual business hours.

**9.2** Where the date of delivery of the Goods is to be specified after the placing of the Order, the Seller shall give the Buyer reasonable notice of the specified date.

**9.3** The time of delivery of the Goods is of the essence of the Contract.

**9.4** If the Goods are to be delivered by instalments, the Contract will be treated as a single contract and not severable.

**9.5** The Buyer may reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

**9.6** The Seller shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of the Goods.

**9.7** The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods.



**9.8** If the Goods are not delivered on the due date then, without limiting any other remedy, the Buyer shall be entitled to deduct from the Price or (if the Buyer has paid the Price) to claim from the Seller by way of liquidated damages for delay.

## **10 Risk and Title**

**10.1** Risk of damage to or loss of the Goods shall pass to the Buyer on delivery to the Buyer in accordance with the Contract. Or at the point of shipping in accordance with terms FOB.

**10.2** The property in the Goods shall pass to the Buyer on delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Buyer once payment has been made and the Goods have been appropriated to the Contract.

## **11 Warranties and Liability**

**11.1** The Seller warrants to the Buyer that the Goods:

**11.1.1** will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller in Writing at the time the Order is placed;

**11.1.2** will be free from defects in design, material and workmanship;

**11.1.3** will correspond with any relevant Specification or sample; and

**11.1.4** will comply with all statutory requirements and regulations relating to the sale of the Goods.

**11.2** Without limiting any other remedy, if any Goods are not supplied in accordance with the Contract, then the Buyer shall be entitled:

**11.2.1** to require the Seller supply replacement Goods in accordance with the Contract within seven days; or

**11.2.2** at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to supply any replacement Goods, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.

**11.3** The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

**11.3.1** breach of any warranty given by the Seller in relation to the Goods;

**11.3.2** any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer;



- 11.3.3** any liability under the Consumer Protection Act 1987 in respect of the Goods;
- 11.3.4** any act or omission of the Seller or its employees, agents or sub-contractors in supplying and delivering the Goods.

#### **11.4 Force Majeure**

Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods, if the delay or failure is beyond that party's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond either party's reasonable control:

- 11.4.1** Act of God, explosion, flood, tempest, fire or accident;
  - 11.4.2** war or threat of war, sabotage, insurrection, civil disturbance or requisition;
  - 11.4.3** acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
  - 11.4.4** import or export regulations or embargoes;
  - 11.4.5** strikes, lock-outs or other industrial actions or trade disputes (whether involving employees or either the Seller or the Buyer or of a third party);
  - 11.4.6** power failure or breakdown in machinery;
  - 11.4.7** epidemic, pandemic, or government-mandated closures or restrictions.
- 11.5** If the Seller claims force majeure, the Buyer may decide to present the request to Arbitration to validate the Force Majeure request. The decision of the Arbitrators shall be final and binding on both parties.

## **12 Termination**

- 12.1** The Buyer may terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:
- 12.1.1** the Seller makes any composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters into administration or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or a moratorium comes into force in respect of the Seller (within the meaning of the Insolvency Act 1986); or
  - 12.1.2** an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller; or
  - 12.1.3** execution or distress is levied against any of the Seller's assets; or
  - 12.1.4** the Seller ceases, or threatens to cease, to carry on business; or



**12.1.5** the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly; or

**12.1.6** before delivery the Seller commits a breach of these Terms in relation to any Contract with the Buyer.

### **13 General**

#### **13**

**13.1** The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

**13.2** A notice required or permitted to be given by either party to the other under these Terms 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 under this provision to the party giving the notice.

**13.3** No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.

**13.4** If any provision of these Terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.

**13.5** Any dispute arising under or in connection with these Terms or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the London Chamber of Commerce, in accordance with the Arbitration Act 1996 as amended from time to time and the decision of such arbitrator shall be final and binding on the Buyer and Seller.

**13.6** These conditions and each contract of sale of Goods between the Buyer and the Seller and all matters arising in connection therewith shall be governed by the laws of England and the Seller agrees to submit to the non-exclusive jurisdiction of the English courts.

### **14 Changes**

01.11.16 Clause 6.1. Insertion Appendix A.

01.05.18 Clause 7.1. Insertion Appendix B.

01.01.21 Clause 8.1. Insertion Appendix C.



01.01.21 Appendix A. Clause 1, f, i. Invoices.

01.01.21 Appendix A. Clause 1, f, v, Pallets.

## Appendix A

### 1. Shipment of Goods

- a. The Buyer does not accept batches with packaging containing varying nett weights.
- b. The Buyer does not accept more than three Seller batches per consignment.
- c. Outer packaging must be neutral and is expected to be new or reconditioned. If reconditioned taints, old labels etc. must be removed and, if repainted, packaging must be of a uniform colour with no visible tallies, names or marks other than the Gerald McDonald Group label showing the following information:
  - i. Our Purchase Order number
  - ii. Product description
  - iii. Packaging size
  - iv. Batch number
  - v. GTN weights
  - vi. Durability date



- d. All inner packaging must conform to UK and EU packaging legislation of goods in contact with food.
- e. All outer packaging must be sealed.

## 2. Documents and document flow.

- a. On agreeing a Purchase, the Buyer will send a Purchase Order and any initial shipping instructions. Where two or more orders are required as call offs the Buyer will refer to call off orders that will have separate references.
- b. With the Purchase Order the Buyer will send marking instructions. These must be followed precisely as any remarking will be for the Seller's account.
- c. The Seller must provide the Buyer with their minimum lead time period.
- d. The Buyer will send a call off requirement to the Seller detailing the Arrival Date at UK port. It is the responsibility of the Seller to make sure the goods are at the Arrival location on time.
- e. Documents to be submitted for Orders from overseas.

Prior to shipment of goods:

- i. Laboratory certificate of analysis. Showing as a minimum:
  - 1. Our Purchase Order number.
  - 2. The date of manufacture.
  - 3. The Seller's batch number(s)
  - 4. The analysis in the *Standards* section of our Raw Material Data Sheet (including full microbiological results) for each batch in the consignment. If the Buyer has to do missing analyses, costs for this will be charged to the Seller.

When goods have been shipped, the Seller shall send by email:

- ii. Invoice:
  - 1. Only one product per invoice.
  - 2. Our PO ref. to appear.
  - 3. Our product code ref. to appear if applicable.
  - 4. To whom the Buyer is to make payment together with bank account details.



- iii. Advice to insure if required.
  
- f. When goods have been shipped and no later than 10 days before arrival: By courier:
  - i. Invoice in duplicate. **Change 1.1.21 See Appendix C. Brexit.**
  - ii. Original and copy Bills of Lading.
  - iii. Movement certificate. To enable the Buyer to achieve the cheapest import duty rate. If in doubt contact the Buyer's logistics dept.
  - iv. Packing note. Quoting the PO number. The Buyer's product code number. All packing must be of the same nett weight.
  - v. Pallets. All pallets supplied by the Seller must be to and be stamped ISPM15 grade.
- g. Documents to be submitted with local Orders.
  - i. Documents in 2 e i and 2 e ii above.

## Appendix B

### 1. Anti-Slavery and Human Trafficking Legislation and Policies.

- a. The Seller shall comply with all applicable anti-slavery and human trafficking legislation, UK and EU directives and regulations that are currently in force including but not limited to the Modern Slavery Act 2015.
- b. The Seller shall have and shall maintain its own policies, procedures, checks and audits to ensure that his whole supply chain in which the Seller is a part adheres to the current legislation. These policies may be subject to audit by the Buyer.
- c. The Seller shall not engage in any practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015.

## Appendix C

**\*\* AMENDMENT as at 1<sup>st</sup> January 2021**

- 1. From 1<sup>st</sup> January 2021 the UK is no longer in the EU. These are the changes that must be observed by all EU Sellers.



2. For all deliveries to the United Kingdom.
  - a. The Buyer specifies that each delivery purchased must contain a minimum 85% EU origin products, unless agreed otherwise.
  - b. The Seller must confirm this by detailing the percentage of EU origin ingredients on the invoice.
  - c. The Seller must advise at least two weeks before shipment if the delivery is not at least 85% EU origin.
  - d. It is the Buyer's option whether he accepts, cancels or opts to postpone the delivery.
3. If the Buyer is charged extra duty due to the Seller failing to observe Appendix C clause 2, the Buyer will charge the extra duty to the Seller.