

Terms Conditions

STANDARD CONDITIONS OF PURCHASING

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following expressions will have the following meanings unless inconsistent with the context:

“Company”	means Bakkavör Foods Limited;
“Conditions”	means the standard terms and conditions of purchase set out in this document together with any special terms agreed in writing between the Seller and the Company;
“Contract”	means any contract between the Company and the Seller for the sale and purchase of the Products and/or the supply of the Services formed in accordance with Condition 2;
“Order”	means any purchase order of the Company for the Products or Services incorporating these Conditions including, without limitation, those orders placed by electronic or other means;
“Products”	means any products which the Seller supplies to the Company (including any of them or any part of them) under a Contract;
“Seller”	means the person, firm, company or organisation from whom the Company orders the Products or Services;
“Services”	means any services which the Company receives from the Seller (including any part of them) under a Contract;
“Specification”	means in relation to any Products or Services, the technical specifications of those Products or documents detailing the requirements of the Services; all preparatory, design and development materials which relate to the Products or Services; all information of any description which explains the structure, design, content, operation, maintenance or functionality of the Products or how the Services will be performed.

1.2 The headings in these Conditions are for convenience only and will not affect their construction or interpretation.

1.3 In these Conditions the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context admits or requires.

1.4 References to a statute or statutory provision include, unless the context otherwise requires, a reference to that statute or statutory provision as from time to time amended, modified, extended, re-enacted, consolidated and all statutory instruments made pursuant to it.

2. CONTRACT

2.1 Subject to any variation under Condition 2.5 and any terms implied by statute or common law, the Contract will be upon these Conditions to the exclusion of all other terms and conditions and all previous oral or written representations, including any terms or conditions which the Seller purports to apply under any acknowledgement or confirmation of order, quotation, Specification, delivery note, invoice or similar document, whether or not such document is referred to in the Contract.

2.2 Each quotation for the Products or Services from the Seller will be deemed to be an offer by the Seller to sell the Products or Services upon these Conditions. All quotations provided by the Seller, including the price provision, will remain open and valid unless and until otherwise withdrawn by written notice from the Seller to the Company. The Contract is only formed when the Company serves an Order on the Seller accepting the quotation. No contract will exist prior to the service of such Order. The Company will not be bound by any Order unless it contains a valid Company purchase order number.

2.3 Delivery of the Products or commencement of performance of the Services will be deemed conclusive evidence of the Seller's acceptance of these Conditions.

2.4 The Seller may not cancel the Contract. The Company is entitled to cancel the Contract in whole or in part by giving written notice to the Seller at any time prior to delivery of the Products or performance of the Services in which event the Company's sole liability will be to pay to the Seller fair and reasonable compensation for work-in-progress at the time of cancellation (but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss) provided that any such payment will be:

2.4.1 - made only in respect of any Products which the Seller, using all reasonable endeavours, could not have utilised elsewhere or reasonably retained for future use, whether in connection with future supplies to the Company or otherwise; and

2.4.2 - subject to the production of evidence to the Company's reasonable satisfaction as to the Seller's fair and reasonable costs for such work-in-progress.

2.5 - Save as set out in the Contract, these Conditions (including any special terms and conditions agreed between the parties) may only be varied or amended in writing, provided such variation or amendment is signed by a duly authorised representative of the Company.

3. PRODUCTS AND SERVICES

3.1 The quantity and description of the Products or Services will be as set out in the Order and/or in any applicable Specification supplied or advised by the Company to the Seller with or before the Order.

3.2 The Seller will comply with all applicable standards, regulations and/or other legal and industry requirements concerning the manufacture, packaging, labelling, packing, storage, delivery and safety of the Products and the provision of the Services.

3.3 The Seller acknowledges that precise conformity of the Products or Services with the Contract is of the essence of the Contract and the Company will be entitled to reject the Products or terminate the contract under Condition 12.1.1 if the Products or Services are not in conformance with the Contract, however slight the breach may be. Any breach of this condition is deemed a material breach which is not capable of remedy under Condition 12.1.1.

3.4 The Company may at any time make changes in writing relating to the Order, including, without limitation, changes in the drawings or Specifications, design, composition or nature of the Products or Services, method of transport, quantities, packing or time or place of delivery or performance. If such changes result in an increase in cost of, or time required for, performance of the Contract the Seller must notify the Company of its

proposed equitable adjustment to the price, delivery schedule or both. Any such adjustment must be approved by the Company in writing before the Seller proceeds with such changes.

3.5 In respect of the Products and Services the Seller will maintain and observe quality control and Seller quality assurance standards in accordance with the requirements of the Company, its customers, relevant British Standards and statutory and regulatory bodies.

3.6 It is the responsibility of the Seller to acquaint itself with the purposes for which the Products supplied are to be used.

3.7 The Seller will maintain detailed quality control and manufacturing records in accordance with the Company's requirements and for the period of at least six (6) years (or longer if required by law) from the date of supply of Products or performance of the Services, including without limitation, adequate details of sell-by and use-by dates, suppliers, delivery dates and any other information in respect of the Products necessary to limit the effects of a product recall.

4. PRICE AND PAYMENT

4.1 The price for the Products and Services will be the price stated in the Order and, unless otherwise stated in that Order, will be:

4.1.1 - inclusive of all charges including, but not limited to, packaging material, packing, shipping, loading, carriage, insurance and delivery of the Products to the place of delivery in accordance with Condition 7.1 and any duties, imposts, levies or taxes other than value added tax; and

4.1.2 - fixed for the duration of the Contract.

4.2 No variation in the price nor extra charges can be made (whether on account of increased materials (raw or otherwise), labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the Company.

4.3 The Seller undertakes that the terms offered to the Company in relation to the price of the Products and Services, will at all times be no less favourable than the best terms offered by the Seller to any other customer. If the Seller provides more favourable prices to any other customer, the Seller will immediately refund to the Company any monies paid by the Company in excess of the more favourable price. Any breach of this condition is deemed a material breach which is not capable of remedy under Condition 12.1.1.

4.4 If the Products are not delivered or the Services performed on the date set out in Condition 7.2, then, without prejudice to the Company's other rights under the Contract, the price of the Products or Services will be reduced at the rate of 5 per cent of the price for each week which elapses between the due date and the date of actual delivery or performance.

4.5 The Seller will invoice the Company for the Products or Services on or within 7 days of delivery or performance. Each invoice must be a proper VAT invoice and quote the number of the Order. Payment is due in sterling (unless otherwise stated on the Order) within 60 days of receipt by the Company of such invoice.

4.6 The Company will be entitled to a discount for prompt payment. The discount will be applied at a rate of 2% of the price payable for every period of 15 days in advance of the standard payment term in Condition 4.5 that payment is made.

4.7 Without prejudice to any other right or remedy, the Company will be entitled but not obliged at any time or times to set off any liability of the Seller to the Company against any liability of the Company to the Seller (in either case however arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency).

4.8 If any sum under the Contract is not paid when due then, without prejudice to the parties, other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 1% per annum over Barclays Bank plc base rate from time to time. The Seller is not entitled to suspend deliveries or performance of the Products or Services as a result of any sums being outstanding.

5. INSTALMENTS

5.1 The Seller may not deliver the Products by separate instalments or perform the Services in stages unless agreed in writing by the Company. If the Company does agree, the Contract will be construed as a separate Contract in respect of each instalment or stage, and without prejudice to any other right or remedy, the Company will have the right, but not the obligation, to:

5.1.1 - treat all the Contracts for the total Order as repudiated if the Seller fails to deliver or perform any instalment or stage; and

5.1.2 - reject any or all of the instalments for the total Order if the Company is entitled to reject any one instalment.

6. PRIOR INSPECTION

6.1 The Company will have the right to inspect and test the Products at any time prior to delivery. The Seller will not unreasonably refuse any request by the Company to carry out such inspection and testing and will provide the Company with all facilities reasonably required.

6.2 If as the result of such inspection or testing the Company is not satisfied that the Products will comply in all respects with the Contract and the Company so informs the Seller within 60 days of inspection or testing, the Seller will take all steps necessary to ensure compliance. Without prejudice to any other rights of the Company, any failure of this obligation by the Seller will be deemed a material breach which is not capable of remedy under Condition 12.1.1.

6.3 Notwithstanding any such inspection or testing, the Seller will remain fully responsible for the Products and any such inspection or testing will not diminish or otherwise affect the Seller's obligations under the Contract.

7. DELIVERY

7.1 The Products will be delivered carriage paid to the address stated on the Order. The Seller will off-load the Products at its own risk as directed by the Company. The Services will be provided at the address stated on the Order or as otherwise specified by the Company.

7.2 The Products and the Services will be delivered and/or performed as applicable during the Company's normal office hours on the date or within the period specified in the Order, or as otherwise specified by the Company. Time for delivery and performance will be of the essence.

7.3 From time to time, the Company may request expedited delivery of the Products and/or performance of the Services, including additional Products and/or Services, and the Seller will use its best endeavours to meet any such request. The Company will reimburse the Seller for any reasonable costs incurred, provided that the Seller notifies the Company and obtains the Company's prior written approval in advance of such costs being incurred.

7.4 The Seller will ensure that:

7.4.1 - the Products are marked in accordance with the Company's instructions and any applicable regulations or requirements of the carrier and properly packed and stored so as to reach their destination in an undamaged condition;

7.4.2 - each delivery is accompanied by a prominently displayed delivery note which shows, inter alia, the Order number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered and, if requested by the Company, a certificate of conformity in the form requested;

7.4.3 - before delivery or performance the Company is provided in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the Products supplied whether in use or otherwise or which will be used in performance of the Services and thereafter information concerning any changes in such properties or ingredients. The Company will rely on the supply of such information from the Seller in order to satisfy its own obligations under the Food Safety Act 1990 and the Health and Safety at Work Act 1974 and any other relevant legislation; and

7.4.4 - the Company is supplied on delivery of the Products with all operating and safety instructions, warning notices clearly displayed and other information as may be necessary for the proper use and storage of the Products and to ensure the Products are rendered safe for the Company to accept delivery of the Products.

7.5 The Company reserves the right to mark the Products immediately on delivery. This is undertaken for the purposes of security and the Company will not be deemed to have accepted the Products by reason of this nor will the Seller be entitled to raise an objection on this ground to any subsequent rejection of the Products.

7.6 No Products or Services supplied under the Contract earlier than the date for delivery or performance, will be accepted or paid for unless the Company notifies the Seller in writing of its intention to accept and pay for the same. The Company has the right to reject any such Products or Services without liability.

7.7 Without prejudice to the Company's other rights under the Contract, if the Products are delivered to the Company in excess of the quantities ordered, the Company will not be bound to pay for the excess and such excess will be and remain at the Seller's risk and be returnable at the Seller's expense.

7.8 The Company will not be deemed to have accepted the Products until it has had 30 days to inspect them following delivery. The Company will also have the right to reject the Products as though they had not been accepted for 60 days after any latent defect in the Products has become apparent.

7.9 The Seller will be responsible for any Products lost or damaged prior to delivery in accordance with Condition 7.1. Without prejudice to the Company's other rights under the Contract, the Seller will, at its expense, replace any such Products within 7 days after notification from the Company of such lost or damaged Products.

8. RISK/OWNERSHIP

8.1 Risk in and ownership of the Products will pass to the Company on delivery in accordance with Condition 7.1.

8.2 All materials, equipment, tools, dies and moulds supplied by the Company to the Seller or paid for by the Company (“Company’s Property”) will at all times:

8.2.1 - be and remain the exclusive property of the Company;

8.2.2 - be held by the Seller in safe custody at its own risk;

8.2.3 - be maintained and kept in good condition by the Seller until returned to the Company;

8.2.4 - not be disposed of other than in accordance with the Company’s written instructions; and

8.2.5 - not be used otherwise than as authorised by the Company in writing.

8.3 The Seller will procure that the Company will be permitted, upon reasonable notice, to enter the premises where the Company’s Property is located in order to inspect the Company’s Property and its use and application.

8.4 The Seller will insure the Company’s Property on the Company’s behalf for its full price against all risks to the reasonable satisfaction of the Company, and will whenever requested by the Company produce a copy of the policy of insurance.

9. INTELLECTUAL PROPERTY

9.1 All designs, drawings, Specifications and documentation supplied by the Company to the Seller are and will remain the property of, and all Intellectual Property Rights therein vest in, the Company. Unless otherwise agreed in writing, any designs and/or specifications created by the Seller and commissioned by or on behalf of the Company will belong to the Company and the Seller hereby assigns all intellectual property rights and other rights existing therein to the Company.

9.2 The Company authorises the Seller to use the Intellectual Property Rights of the Company for the purposes only of exercising its rights and performing its obligations under the Contract. The Seller will have no other rights whatsoever in respect of the Intellectual Property Rights of the Company. The

Seller authorises the Company to use the Seller's Intellectual Property Rights in the ordinary course of the Company's business.

9.3 The Seller warrants that neither the Products, nor their use, resale or importation, infringes any Intellectual Property Rights of any third party and the Seller will indemnify, keep indemnified and hold harmless the Company from and against all costs, expenses, liabilities, injuries, losses, damages, claims, demands, proceedings or legal costs and judgments which the Company incurs or suffers as a consequence of the Seller's breach of this warranty.

9.4 For the purpose of this Condition 9, "Intellectual Property Rights" means all intellectual and industrial property rights including patents, know-how, trade marks (registered and unregistered), designs rights (registered and unregistered), utility models, applications for and rights to apply for any of the foregoing, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world.

10. WARRANTIES AND REMEDIES

10.1 The Seller warrants, represents and undertakes to the Company that the Products and Services, as applicable, will:

10.1.1 - 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;

10.1.2 - be free from defects in design, material and workmanship;

10.1.3 - be safe and without risk to health;

10.1.4 - correspond in every respect with the Order and any Specifications, drawings, samples or descriptions provided by the Company;

10.1.5 - be capable of being incorporated into, and compatible with, any products that the Company in its usual course of business incorporates the Products into;

10.1.6 - comply with all statutory requirements, regulations, voluntary codes of conduct and good industry practice relating to the Products or Services and

their manufacture, processing, packaging, storage, transportation, sale, supply, use and performance;

10.1.7 - be performed by appropriately qualified, trained and experienced personnel with a high standard of skill, care and diligence and in accordance with the Contract; and

10.1.8 - be performed to such standards of quality generally observed in the industry for similar services.

10.2 Without prejudice to any other rights or remedies of the Company (whether express or implied), if the Seller breaches any terms of the Contract (including, without limitation, a failure or delay in delivery) or the Company terminates the Contract in accordance with Condition 12.1 then the Company may (but will not be obliged) to, whether or not the Products or Services have been accepted:

10.2.1 - cancel any or all remaining instalments or stages if the Contract has not already been terminated;

10.2.2 - refuse to accept any subsequent delivery of the Products and/or performance of the Services which the Seller attempts to make;

10.2.3 - recover from the Seller any additional expenditure reasonably incurred by the Company in obtaining the Products or Services in substitution from another Seller;

10.2.4 - claim damages for any additional costs, loss or expenses incurred by the Company which are in any way attributable to the Seller's breach of the Contract or failure to deliver the Products or perform the Services on the due date or at all;

10.2.5 - for Products which do not conform with the provisions of Condition 10.1, oblige the Seller, at the Company's option, forthwith to offer the Company a full refund or to replace or repair such Products free of charge and any repaired or replaced Products will be guaranteed in accordance with these Conditions; and/or

10.2.6 - for Services (or any part of them) which do not conform with the provisions of Condition 10.1 (as applicable), oblige the Seller forthwith to either provide the Company with a full refund for the Services or re-perform the Services (or any part of them) free of charge to the Company's satisfaction.

10.3 The Seller will indemnify, keep indemnified and hold harmless the Company from and against all costs, expenses, liabilities, injuries, direct,

indirect or consequential losses (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Company incurs or suffers as a consequence of:

10.3.1 - a direct or indirect breach by the Seller of the terms of the Contract;

10.3.2 - negligent performance by the Seller of the terms of the Contract;

10.3.3 - any wilful act or omission of the Seller, its employees or agents;

10.3.4 - failure or delay in delivery or performance by the Seller of the terms of the Contract;

10.3.5 - the Products or Services not complying with the terms of the Contract; or

10.3.6 - any product liability claims, product recall, retrofit or service campaign arising out of or in respect of the sale by the Company of any products which incorporate Products that do not comply with the terms of the Contract.

11. COMPLAINTS HANDLING

11.1 The Seller will immediately notify the Company of any complaints in relation to the Products or any statutory notice or proceedings issued against it by an authorised authority.

11.2 The Seller will immediately notify the Company by telephone (and will immediately follow-up such telephone call in writing providing all relevant details) if it discovers that there is:

11.2.1 - any defect in the Products or Services which have been delivered to the Company at any time; or

11.2.2 - any error in the information supplied in relation to the safety of the Products or Services; or

11.2.3 - a risk that an incident may damage the reputation of the Company or any of its brands,

(whether or not any such defect or incident represents a breach of the terms of the Contract) and which causes or may cause any risk of death, injury, damage to property or loss of reputation.

11.3 If any of the circumstances in Conditions 11.2.1 to 11.2.3 apply, the Company may in its absolute discretion and at the Seller's cost and expense:

11.3.1 - recall any Products and any products incorporating the Products already sold by the Company to its customers (whether for a refund, credit or replacement which will in each case be undertaken by the Seller at the Company's option); and/or

11.3.2 - issue a notification whether in writing or otherwise to its customers about the manner of use of any Products and any products incorporating the Products already sold by the Company to its customers, in each case on the basis of the identification whether by the Company, its customers or any third party of any defect in the relevant Products or any products incorporating the Products which the Company reasonably concludes affects or may affect any of the Products or any products incorporating the Products supplied, which causes or may cause any risk of death, injury or damage to property, provided that the Company notifies the Seller of its decision ("Product Recall").

11.4 The Seller will cooperate with the Company to ensure that any Product Recall is promptly and effectively dealt with. In particular:

11.4.1 - the Seller will enforce its and the Company's procedures covering Product Recall subject to any additional reasonable directions received from the Company;

11.4.2 - the Seller will ensure that it retains all batch records and product information pertaining to the recalled Products and that these are made available to the Company as soon as reasonably practicable and, in any event, within 24 hours from notification of the Product Recall;

11.4.3 - on request from the Company (without liability), the Seller will cease delivering the recalled Products which have already been ordered by the Company but which the Seller has not yet delivered;

11.4.4 - ensure all of the Seller's relevant personnel are aware of and prepared for applying the Product Recall procedures set out in or referred to in this Condition 11;

11.4.5 - only supply Products replacing recalled Products on the Company's request;

11.4.6 - all press or other enquiries relating to the Product Recall will be dealt with by the Company (save that the Company may, in any response thereto, make a statement that any enquiries relating to the Products should be referred to the Seller). Any specific enquiries received by the Seller in relation to the Product Recall will be immediately referred to the Company; and

11.4.7 - either party may publish any notices or press releases associated with a Product Recall, provided that it will obtain the other party's prior written consent, such consent not to be unreasonably withheld or delayed.

11.5 The Seller will indemnify, keep indemnified and hold harmless the Company from and against all costs, expenses, liabilities, injuries, losses, damages, claims, demands, proceedings or legal costs and judgments which the Company incurs or suffers as a consequence of any customer complaints in relation to the Products or any products incorporating the Products or any Product Recall.

12. TERMINATION

12.1 The Company may by written notice served on the Seller terminate the Contract immediately if the Seller:

12.1.1 - is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Seller fails to remedy such breach within 14 days' service of a written notice from the Company, specifying the breach and requiring it to be remedied;

12.1.2 - becomes bankrupt, insolvent, enters into any arrangement or composition with its creditors, has passed a resolution or is subject to a petition presented to any court for its winding up (except for the purposes of amalgamation or reconstruction), has a receiver, manager or administrative receiver appointed in respect of the whole, or any part of, the Seller's undertaking or assets, has an administrator appointed in respect of it or is the subject of an application for administration filed at any court;

12.1.3 - has any distraint, execution or other process levied or enforced on any of its property or ceases to trade;

12.1.4 - has a change in its management and/or control as defined by section 416 Income and Corporation Taxes Act 1988; or

12.1.5 - the equivalent of any of the above occurs to the Seller in another jurisdiction to which the Seller is subject;

or the Company reasonably anticipates that one of the above set of circumstances is about to occur.

12.2 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Seller or the Company accrued prior to termination and the conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

12.3 Upon termination of the Contract howsoever arising, the Seller will immediately return to the Company all of the Company's Property, all Confidential Information of the Company and all other materials, data and information provided to the Seller by the Company or on the Company's behalf.

13. FORCE MAJEURE

The Company will not be in breach of the Contract or otherwise liable to the Seller in any manner whatsoever for any failure or delay (or for the consequences of any failure or delay) in performing its obligations under the Contract, due to any event beyond its reasonable control including, without limitation, acts of God, war, civil commotion, strikes or other industrial disputes (whether involving the work force of the Company or not), fire, explosion, flood, storm, epidemic, acts of terrorism, national emergencies, malicious damage, compliance with any law or regulation, accident, breakdown of plant or machinery, delays in shipments or default of suppliers, agents or subcontractors and the date for performance of such obligations will be deemed suspended for a period equal to the delay caused by such event.

14. CONFIDENTIALITY

14.1 The Seller will keep confidential any and all Confidential Information that it may acquire and will not use the Confidential Information for any purpose other than to perform its obligations under the Contract. The Seller will ensure that its officers and employees comply with the provisions of this Condition 14.

14.2 The obligations on the Seller set out in Condition 14.1 will survive termination of the Contract but will not apply to any information which:

14.2.1 - is publicly available or becomes publicly available through no act or omission of the Seller; or

14.2.2 - the Seller is required to disclose by order of a court or regulatory body of competent jurisdiction.

14.3 For the purposes of this Condition 14, "Confidential Information" means all information in respect of the business of the Company or its associated companies including, without limitation, know-how or other matters connected with the Products or Services, any Intellectual Property Rights of the Company, any Specifications, drawings, designs and materials, and information concerning the Company's relationships with actual or potential clients, customers or suppliers and the needs and requirements of the Company and of such persons and any other information which, if disclosed, will be liable to cause harm to the Company.

15. GENERAL

15.1 Time for performance of all obligations of the Seller under the Contract is of the essence. Time for performance of all obligations of the Company under the Contract is not and may not be made by notice of the essence.

15.2 Each right or remedy of the Company under any Contract is without prejudice to any other right or remedy of the Company under this or any other Contract.

15.3 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from that Contract and will be ineffective without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.

15.4 No failure or delay by the Company to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

15.5 The Company may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.

15.6 The Contract is personal to the Seller who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.

15.7 If the Seller processes personal data and sensitive personal data (as defined in the Data Protection Act 1998), the Seller will only process such personal data for the purpose of performing its obligations under the Contract and on instruction from the Company. The Seller will at all times:

15.7.1 - process any personal data lawfully and will not contravene any statute, regulation or generally accepted code of good practice in performing its obligations under the Contract; and

15.7.2 - take such security measures as required to enable it to process any personal data in compliance with obligations equivalent to those imposed by the Seventh Principle of the Data Protection Act 1998.

15.8 The Contract and the Specification contains all the terms which the Company and the Seller have agreed in relation to the Products and Services and supersedes any prior written or oral agreements, representations or understandings between the parties. The Seller acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by or on behalf of the Company which is not set out in the Contract or Specification. Nothing in this Condition 15.8 will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

15.9 Any notice in connection with the Contract will be in writing addressed to the other party at its registered office, or principal place of business and will be delivered by hand, or first class or special delivery post, but not by email or facsimile. The notice will be deemed to have been duly served, if delivered by hand, when left at the proper address for service (excluding any day that is a Saturday or Sunday or a public or bank holiday in England), or if by pre-paid, first-class post or special delivery post, 2 days after being posted (excluding any day that is a Saturday or Sunday or a public or bank holiday in England).

16. THIRD PARTY RIGHTS

16.1 The parties hereby acknowledge and agree that any company in the Bakkavör group of companies on whom any benefit is directly or indirectly conferred on it under the Contract may enforce the relevant terms of the Contract as if it were expressly a party to the Contract.

16.2 The Company and the Seller reserve the right to rescind or vary the Contract or any term of it without the consent of the Bakkavör group of companies.

16.3 Except as set out in this Condition 16, the parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

17. ARBITRATION

17.1 The parties will refer any dispute or claim arising out of or in connection with the Contract to arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce presently in force.

17.2 The number of arbitrators will be one and the parties will agree the identity of the arbitrator. If the parties fail to agree the identity of the arbitrator either party may ask the Chilled Food Association to appoint an arbitrator and the decision of the Chilled Food Association will be final.

17.3 The arbitration will take place in London and the language to be used in the arbitral proceedings will be English.

18. LAW AND JURISDICTION

The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of the Contract will be governed by English law. Subject to Condition 17, the parties agree to submit to the exclusive jurisdiction of the English Courts to settle any disputes which may arise out of or in connection with the Contract.

Updated 20.07.07