



## STANDARD TERMS AND CONDITIONS FOR WHOLESALE SUPPLY OF FOOD, DRINKS, CONSUMABLES AND MERCHANDISE

Edition 101/20

These Standard Terms and Conditions for the Wholesale Supply of Food, Drinks, Consumables and Merchandise (the **Terms**) will apply to all supplies made by MM Grocery Ltd (the **Company**) to a purchasing customer (the **Client**). These Terms and the Supply Letter explain the basis upon which the Company will make supplies to the Client during the term of the Contract.

These Standard Terms supersede and replace any previous commercial arrangements, terms and conditions and terms of business between the Company and the Client, save as for anything contained in the Supply Letter, as amended by the parties to it in accordance with its terms from time to time.

In these Standard Terms and in the relevant Supply Letter "we", "us" and "the Company" refer to MM Grocery Ltd and "you" refers to the Client.

The Company and its group support suppliers and Clients who strive to produce, sell and consume products free of harmful pesticides and chemicals, suppliers who are responsible stewards of the land, the zone and the environment in which the Company operates.

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## 1 Definitions and Interpretation

1.1 In these Terms and in the Supply Letter, the following terms have the following meanings:

<b>Affiliate</b>	in relation to a Party, any entity or person that controls, is controlled by, or is under common control with that Party. For the purposes of this definition, "control" shall mean direct or indirect beneficial ownership of 50% (or, outside a Party's home territory, such lesser percentage as is the maximum, permitted level of foreign investment) or more of the share capital, stock or other participating interest carrying the right to vote or to distribution of profits of that entity or person, as the case may be.
<b>Applicable Laws</b>	means:  (i) all statutes, statutory instruments, by-laws, orders, directives, treaties, decrees or laws, including common law principles, judgments, demands, orders or decisions of any court, regulator or tribunal; including occupational health and safety requirements, legislation relating to food, the Bribery Act 2010 and data protection laws, in force in the UK from time to time;  (ii) legally binding rules, policy, guidance or recommendations issued by any UK governmental, statutory or regulatory body and/or  (iii) legally binding industry code of conduct or guideline,  in each case, which relates to any matter set out, or referred to, in this Contract.
<b>Brexit</b>	Brexit is an abbreviation for "British exit," and refers to the UK's decision in a referendum held on 23 June 2016 to leave the European Union (EU). For the purpose of the Contract, the term Brexit indicates the effective exit of the UK from the EU in whatever form and under any conditions.
<b>Bribery Act</b>	the UK Bribery Act 2010, as amended;
<b>Business Day</b>	means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for regular, non-automated business.
<b>Claims</b>	all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise).
<b>Client's Credit Limit</b>	such amount as indicated in the Supply Letter, as shall be varied from time to time in accordance with Clause 4.3 below.
<b>Commencement Date</b>	the date indicated in the Supply Letter as the 'Commencement Date'.
<b>Company</b>	means MM Grocery Ltd or such other replacement Affiliate of MM Grocery Ltd as it shall be communicated in writing to the Client.
<b>Confidential Information</b>	Means, in relation to a Party, all information of a confidential and/or proprietary nature in respect of that Party's business which are not in the public domain other than a result of the breach of the Contract, including (i) all information expressly designated by such Party as being of a confidential, secret or sensitive nature, and (ii) information concerning that Party's relationships with its actual or potential clients or suppliers, any technical, commercial and financial information, business methods, price strategies, development plans, computer systems and software, product and/or catering services development strategies, know-how, trade secrets or market opportunities
<b>Contract</b>	the Supply Letter and these Terms, including any document referred to in the Supply Letter.
<b>Goods</b>	means the items, goods and materials of whatever nature supplied by the Company to the Client pursuant to the Contract.
<b>Indemnified Party</b>	the meaning given in Clause 12.1 below.
<b>Late Payment Regulation</b>	the UK Late commercial payments: charging interest and debt recovery, as amended from time to time.

<b>Losses</b>	all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever.
<b>Parties</b>	the Client, the Company and, if applicable, any additional party to the Supply Letter, and "Party" shall mean either one of them.
<b>Payment Guarantor</b>	a Party to the Supply Letter (and, therefore, to the Contract) in its capacity as the guarantor of the Client's payment obligations under the Contract, as set out in the Supply Letter.
<b>Payment Terms</b>	such payment terms as indicated in the Supply Letter, as shall be varied from time to time in accordance with Clause 4.4 below.
<b>Quarter</b>	a period of three consecutive calendar months.
<b>Quarter Date</b>	The last day of March, June, September or December in each calendar year.
<b>Supply Letter</b>	a contact letter signed between the Company and the Client pursuant to which the Company agrees to supply Goods to the Client on the terms and conditions of the Contract.

- 1.2 These Terms form part of the 'Contract' referred to in each Supply Letter and shall be deemed to be made between the Company, the Client and, where appropriate, the Enforcer, referred to in the Supply Letter, as though these Terms (as they may be amended and restated in accordance with clause 20(Amendments)) were expressly set out in the Supply Letter.
- 1.3 A Party to the Contract means a Party to a Supply Letter and includes its permitted assignees or other transferees under the Contract and/or the successors in title to substantially the whole of its undertaking and, in the case of an individual, to his or her estate and personal representatives.
- 1.4 A person includes any person, individual, company, firm, corporation, government, state or agency of a state or any undertaking (whether or not having separate legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists).
- 1.5 A statute or statutory instrument or any of their provisions is to be construed as a reference to that statute or statutory instrument or such provision as the same may have been or may from time to time hereafter be amended or re-enacted.
- 1.6 anything in the Contract that places an obligation on a Party shall be construed requiring that Party to meet such obligation and to procure that any of its principals, employees, agents, Affiliates and authorised representatives meet such obligation;
- 1.7 the headings to the clauses, schedules and paragraphs of the Contract are not to affect the interpretation;
- 1.8 where the word "including" is used in the Contract, it shall be understood as meaning "including without limitation".
- 1.9 Words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

## **2 Existence of a Contract**

- 2.1 No binding Contract among the Parties to the Supply Letter shall be in force until the Company accepts the Client as a new client of the Company and agrees to supply Goods on the terms and conditions set out in the Contract.
- 2.2 No verbal representation by any employee (however junior or senior), agent, shareholder or representative of the Company or any of the Company's Affiliates shall form part of the Contract, nor shall they be treated as constituting a representation on the part of the Company or a variation, implied or express, of the terms of the Contract.
- 2.3 In the event of an inconsistency between one or more terms of the Supply Letter and these Terms, the terms of the Supply Letter will prevail, but without prejudice to the remaining applicable Terms.

## **3 Price**

- 3.1 Unless otherwise stated, prices quoted are exclusive of value added tax or any similar taxes or duties levied by any Government on the value of the Goods.
- 3.2 The price to be paid for the Goods shall be that agreed by the Company and the Client from time to time.
- 3.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Client's acceptance of the prices quoted by the Company and these Terms.

#### **4 Payments and credit**

- 4.1 The price of the Goods shall be paid by the date stated for payment on the invoice sent by the Company. The Client will reimburse to the Company all costs and expenses (including legal costs) together with interest thereon at the rate 8% per annum above HSBC UK Bank plc base rate, incurred in the collection of any overdue amount and compensation as set by Late Payment Regulation.
- 4.2 For the purposes of the provisions contained in this Clause 4 only, time shall be of the essence of the Contract.
- 4.3 As part of the acceptance of the Client referred to in Clause 2.1 above, the Company reserves the right to conduct a credit search against the Client. Depending on the outcome of the credit search and other due diligence investigations that the Company may, in its sole discretion carry out, the Company may confirm to the Client the Client's Credit Limit indicated in the Supply Letter or approve different Client's Credit Limits, which it will communicate to the Client in writing from time to time.
- 4.4 The Payment Terms for the Client shall be as indicated in the Supply Letter provided that:
- 4.4.1 in the absence of a payment or other default of the terms of the Contract on the part of the Client, the Company and the Client may agree different payment terms in writing from time to time and, when so agreed, they shall be regarded as the 'Payment Terms' for the purpose of the Contract; or
- 4.4.2 where the Client is in breach of any of the terms of the Contract, the Company shall have discretion to vary unilaterally in its sole discretion the Payment Terms and communicate such variation to the Client, which, when so communicated in writing to the Client, they shall be regarded as the 'Payment Terms' for the purpose of the Contract.
- 4.5 When, as part of the supply of Goods pursuant to the Contract, the Client's Credit Limit agreed from time to time in accordance with Clause 4.3 above is reached in any given month, the Company shall not be obliged to accept or fulfil any further orders for Goods to the Client until the Client has settled an outstanding amount (regardless of the agreed payment terms), which shall bring the total Company's credit outstanding in relation to the Client (including any sum payable in relation to any such new order) within the agreed Client's Credit Limit.
- 4.6 The Company may agree with the Client to set up a direct debit payment system in order to streamline payments and reduce the administration burden on the Client. Where such direct debit system, is in force, payments will be collected by the Company on the same terms agreed with the Client in the Supply Letter. In the event of default on the part of the Client of a direct debit payment, the Company reserves the right to recover from the Client, in addition to the defaulted payment, administrative and banking costs incurred by the Company up to a maximum of £80 per defaulted payment.
- 4.7 Where a Party has entered into the Contract as the Payment Guarantor, the Company may instruct such Payment Guarantor to settle any amount which:
- 4.7.1 was properly due pursuant to the Contract and has remained outstanding for 14 calendar days or more after the due date; and/or
- 4.7.2 was properly due pursuant to the Contract and was due to be collected by direct debit in accordance with Clause 4.3 above, and which has not been settled by the Client for 14 calendar days or more after the due date.

Without prejudice to any other rights and entitlement of the Payment Guarantor vis-à-vis the Client, the Client acknowledges that, where the Payment Guarantor has been required to settle any outstanding amount pursuant to the terms of this Clause 4.7, the Payment Guarantor may be entitled to recover an additional percentage of the sum payable to the Company to cover the Company's administrative costs and risk, as shall be indicated in the Supply Letter.

#### **5 Orders and Delivery**

- 5.1 An order (howsoever transmitted to the Company) shall only be valid upon the Company's express acceptance of such order or upon the Company delivering the Goods indicated in the order in accordance to, and subject to the terms of, the Contract.
- 5.2 An order may not be cancelled by the Client without the written consent of the Company. The Company reserves the right, upon consent being given, to levy a cancellation charge of not more than 20% of the selling price of the Goods ordered by the Client to cover the Company's losses arising from the cancellation. Orders in relation to Goods which the Company has ordered specifically on behalf of the Client and cannot be returned or repurposed, will result in the Company levy a cancellation charge of 100% of the selling price of such Goods, provided that following the levy of such charge, the Client may elect to take delivery of the Goods.
- 5.3 Delivery of the Goods shall take place at the Client's premises or at such other location as may be indicated in the Supply Letter.
- 5.4 Times quoted for delivery of the Goods are intended as estimates only and are not therefore to be treated as being of the essence of the Contract.

- 5.5 The Company shall not be liable in any way for any direct or indirect loss, damage or expense (including loss of profits and liability to third parties) suffered or incurred by the Client as a consequence of any delay in delivery.
- 5.6 the Company reserves the right to deliver the goods by instalments in any sequence and to tender a separate invoice in respect of each instalment. No default or failure by the Company in respect of any one or more instalments shall entitle the Client to treat the Contract as repudiated or to damages.
- 5.7 Deviations in the quantity of the Goods delivered from that stated in the acceptance of an order shall not give the buyer any right to reject the Goods or to claim damages, and the Client shall be obliged to accept and pay at the Contract rate for the quantity of Goods delivered.

## **6 Force Majeure**

The Company shall not be liable for failure to deliver the Goods or for failure to comply with the Contract in any other respect by reason of force majeure or any circumstance howsoever arising outside the reasonable control of the Company including, but without limitation to the generality of the foregoing, any industrial action, strikes, lock-outs, shortages of labour, breakdown of machinery, non-availability of supplies of stock, materials or parts, delay in the delivery to the Company of the Goods, civil commotion, riots, war, breaking off of diplomatic relations, fire, explosion, accident, sabotage, storm, flood, earthquake, snow, fog, subsidence, pestilence or epidemics or compliance with any directive, request or order of any person with actual or apparent governmental (or other public) authority, Government action or legislation or regulation or any act of God and inability to obtain fuel, power or transportation. Such failure shall not affect the obligation of the Client to pay for Goods already delivered. In the event that such circumstances shall continue for an unbroken period of thirty (30) days the Company shall have the right by notice in writing to terminate the Contract to the extent that it shall not already have been performed.

## **7 Damage, Shortage and Loss in Transit**

- 7.1 The Client shall carefully inspect the Goods on delivery and having verified that the quantities are correct and sign the delivery note accordingly.
- 7.2 No liability in respect of Goods found to be damaged on delivery, or, had a careful inspection been carried out by the Client on delivery, which would have been found to be damaged, or for shortages, or for non-compliance with their description, will be accepted by the Company unless written notice thereof is received by the Company within 24 hours of delivery.
- 7.3 The Company shall accept no liability should a delivery note be annotated as "Signed Unchecked" or any other similar conditional acceptance.

## **8 Property, Title and Risk**

- 8.1 Risk of loss or damage in the Goods shall pass to the Client at the time of delivery.
- 8.2 Property and ownership in the Goods shall, notwithstanding delivery, not pass from the Company to the Client until
- 8.2.1 the Client shall have paid the Company in full therefore pursuant to Clause 4 above; and
- 8.2.2 no other sums are then outstanding from the Client to the Company on any account whatsoever, whether or not such sums have become due for payment.
- 8.3 Until payment pursuant to Clause 4 above is made to the Company, the Client shall hold the Goods on a fiduciary basis only and as bailee only for the Company and the Client shall store the Goods without cost to the Company.
- 8.4 The Client shall, while property in the Goods remains with the Company, insure the Goods to their full value against all risks to the reasonable satisfaction of the Company.
- 8.5 In the event that the Company is entitled to exercise any of its rights under Clauses 4 and 8:-
- 8.5.1 the Company shall (without prejudice to any of its other rights and remedies) have the right to re-possess the Goods; and
- 8.5.2 any right of the Client to sell, dispose of, deal or in any way use the Goods shall cease forthwith.
- 8.6 The Company shall be entitled to maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Client.

## **9 Warranty**

- 9.1 The Company warrants that all Goods which are food and drinks shall comply with the Food Safety Act 1990 and all relevant UK legislation from time to time in force. The Company warrants that all Goods other than food and drink products shall comply with all relevant UK legislation from time to time in force, provided that, in giving the warranties pursuant to this Clause 9.1, the Company is relying on the same warranties received from the Company's suppliers of the Goods where the Company shall have made only a reasonable

commercial effort to ascertaining the validity of such corresponding supplier's warranties and shall not be required to, or held by the Client accountable for, any further or factual investigation thereof.

- 9.2 The Client shall ensure that no Goods it purchases from the Company is sold (or otherwise distributed) after any 'best-before' or 'use-by' dates included on the Goods, their packaging or otherwise. To the extent any Goods is sold (or otherwise distributed) by the Client after any such date, it shall be at the Client's sole risk, and the Client shall compensate and hold the Company harmless against any Losses, Claims, expenses or damages it incurs howsoever relating to the same.
- 9.3 The Company's liability to the Client for any breach of its obligations shall not in any event exceed the Contract price and the Company shall be under no liability for any consequential or indirect loss suffered, or liability to third parties incurred, by the Client. The Client shall use its best endeavours to ensure that users observe and comply with any warnings directions and instructions contained on or supplied with the Goods (including packaging). Without prejudice to any other provisions of the Contract, the Company shall not be liable for any failure by the users of the Goods to observe and comply with the aforesaid warnings, directions and instructions or for any unauthorised use by users.
- 9.4 Subject to the provisions of this Clause 9, all warranties and conditions whether applied by statute or otherwise are hereby excluded.
- 9.5 Notwithstanding the provisions of Clause 9.4 above, nothing in this Clause 9 or in any other provisions of these Terms shall:-
- 9.5.1 restrict or exclude any liability for death or personal injury caused by the negligence of the Company; or the Company's liability as seller under Section 12 of the Sale of Goods Act 1979; or
- 9.5.2 affect the statutory rights of a buyer dealing as a consumer (as defined in Section 12 of the Unfair Contract Terms Act 1977), but not otherwise; or
- 9.5.3 restrict or exclude any liability of the Company arising under Part 1 of the Consumer Protection Act 1987.
- 9.6 All pictures and images used by the Company in any document are for illustration purposes only.

## **10 Effect of Default by the Client**

- 10.1 In the event that:
- 10.1.1 the Client fails to make payment for the Goods in accordance with Clause 4 above;
- 10.1.2 the Client fails to pay any other debt due and payable to the Company;
- 10.1.3 the Client fails to take delivery of any of the Goods or any other goods supplied by the Company (except in accordance with the Client's contractual rights);
- 10.1.4 any distress or execution shall be levied upon any of the Client's goods or if the Client offers to make any arrangement with his creditors or commits an act of bankruptcy or if any petition in bankruptcy be presented against the Client or the Client is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Client (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if bankruptcy proceedings shall be commenced in respect of the Client or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Client's business; or
- 10.1.5 the Client otherwise commits a breach of these Terms,
- then all sums outstanding in respect of Goods shall become payable immediately and the Company may in its absolute discretion and without prejudice to any other rights which it may have:-
- (i) suspend all future deliveries of Goods to the Client under the Contract in question or under any other contract and or terminate any such Contract(s) without liability upon its part; and/or
- (ii) require payment or interest on all amounts due at the rate of 8% per annum above the base rate of HSBC UK Bank plc for the time being prevailing from the date when payment for the Goods in question became due to the date of actual payment (such interest to run from day to day and to accrue after as well as before any judgement); and/or
- (iii) exercise any of its rights pursuant to Clause 8 above.
- 10.2 In addition to any right of lien which the Company may have, the Company shall, in any of the events described in Clause 10.1 above or any breach by the Client of the terms of these Terms, have a general lien over all Goods of the Client then in the possession of the Company for the unpaid price of the Goods and any other Goods sold and delivered by the Company to the Client under these Terms or any other contract.

- 10.3 The Client shall pay the whole costs (including legal costs on a full indemnity basis) incurred by the Company in the enforcement of its rights hereunder and all such costs as be incurred by it as a consequence (direct or indirect) of a breach by the Client of any of these Terms.

## 11 Intellectual Property

No right or licence is granted under the Contract to the Client under any patent, trade mark, copyright, registered design or other intellectual property right except the right to use or to resell the Goods but no warranty is given as to whether such use or resale will infringe the rights of any third party

## 12 Indemnity

- 12.1 Each Party (for the purpose of this clause, the **Indemnifying Party**) undertakes to indemnify and keep indemnified the other Party or Parties and their respective employees, agents and representatives and Affiliates (for the purpose of this clause, each being an the **Indemnifying Party**) against any and all Claims and Losses suffered, and any and all legal and other fees and costs incurred, by or the indemnified Party in connection with any material breach of any term, warranty or representation contained in the Contract, except where any such Claims or Losses result from the fraud, wilful misconduct or gross negligence on the part of any Indemnified Party. This Clause 12 shall survive the termination of the Contract.
- 12.2 Notwithstanding anything contained in the Contract and to the fullest extent permitted by law, the liability of the Company under or in connection with the Contract, whether arising in contract, tort, negligence, breach of statutory duty or otherwise, shall not exceed £20,000 (twenty thousand pound sterling).

## 13 Assignments

- 13.1 The Client shall not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under the Contract without the prior written consent of the Company.
- 13.2 Where the Company provides its consent to the assignment by the Client of any of its rights and obligations under the Contract to a third party, the Client shall, unless otherwise agreed by the Company in writing, remain primarily responsible for the full performance of its duties and obligations under the Contract.
- 13.3 The Company shall be entitled, by providing at least thirty days' notice to the Client, to assign and transfer all its rights and obligations under the Contract to any Affiliate of the Company or to any non-connected party, provided that such affiliate or non-connected party undertakes to the Company that it shall observe the terms of the Contract.

## 14 Term and termination

- 14.1 Each Party may terminate the Contract by written notice to the other Party or Parties.
- 14.2 Without prejudice to the other termination provisions, remedies or rights a Party may have pursuant to the Contract, a Party may terminate the Contract at any time on written notice to the other Party or Parties (for the purpose of this clause, individually or collectively referred to as the **Other Party**), if:
- 14.2.1 the Other Party is in material breach of its obligations under the Contract and, if the breach is capable of remedy and it is still unwaived, the Other Party has failed to remedy such breach within ten days of being notified in writing of the requirement to remedy the breach; or
- 14.2.2 the Other Party is declared insolvent by a competent court or if an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or re-construction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Other Party's assets or business, or if the Other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt; or
- 14.2.3 if the continuation of the Contract becomes unlawful or is against applicable regulation or public policy, or if it shall result, or in the reasonable opinion of the affected Party will be likely to result, in any material tax or other liability or material administrative or other disadvantage or a reputational damage to a Party.

## 15 Effects on termination

- 15.1 Without prejudice to anything contained in the Contract, on termination of the Contract, each Party shall remain responsible for all its duties and obligations accrued up to the termination of the Contract and any clauses of the Contract which expressly or by implication have effect after termination shall continue in full force and effect.
- 15.2 In the event of the termination of the Contract (howsoever arising), the Client shall pay any outstanding sums which are due to the Company pursuant to the Contract within seven days after termination.

## 16 Confidentiality

- 16.1 The Parties acknowledge and agree that Confidential Information may be made available or disclosed by

one to another during the term of the Contract. Neither Party shall disclose any Confidential Information to anyone other than, strictly on a need-to-know basis, employees, agents or representatives of the Client, provided always that the Party disclosing Confidential Information pursuant to this clause:

- 16.1.1 shall ensure that the receiver of the Confidential Information is aware of the confidential nature thereof and agrees to adhere to a duty of confidentiality substantially as set out in the clause 16; and
  - 16.1.2 shall remain responsible for compliance with Clause 16 and shall be primarily liable for any breaches thereof.
- 16.2 The obligations of Clause 16.1 shall not apply to any Confidential Information which:
- 16.2.1 was known or in the possession of the disclosing Party before it was provided to it by the other Party;
  - 16.2.2 is, or becomes, publicly available through no fault of the disclosing Party;
  - 16.2.3 is provided to the disclosing Party without restriction or disclosure by a third party who, as far as the disclosing Party is actually aware, did not breach any confidentiality obligations pursuant to the Contract by making such a disclosure; or
  - 16.2.4 was developed by disclosing Party (or on its behalf) who had no direct access to, or use or knowledge of the Confidential Information supplied by the other Party; or
  - 16.2.5 is required to be disclosed by order of a competent official body or court of competent jurisdiction.

## **17 Anti-money Laundering and Client Due Diligence**

- 17.1 It is the Company's policy to adhere to anti-money laundering (AML) practices and standards through due diligence on prospective and existing Clients. Accordingly, the Company shall be entitled under the Contract to carry out appropriate due diligence on each new Client and, if necessary, monitor the Client during the existence of the Contract to ensure that the Company's AML policy and standards are met.
- 17.2 The Company shall be entitled pursuant to the Contract to suspend or terminate the Contract where the Company's request for know-your-client (KYC) and client due diligence (CDD) is not complied with by the Client to the Company's satisfaction.
- 17.3 The Company shall be entitled to outsource or delegate its KYC and CDD functions to external compliance service providers and, to the extent that the Company shall make such delegation, it will notify the Client who shall be under an obligations to comply with any reasonable request for KYC and CDD documents and information that the Client will receive from such external compliance service provider or providers.

## **18 Use of the Company's name**

- 18.1 The Client shall not, unless authorised in writing by the Company, refer to or mention the name of the Company, any of its Affiliates, Mercato Metropolitan or MM (or state, report, notify or refer to the fact that the Company is providing any services or supplies to the Client) for the purposes of persuading or influencing a third party to enter into any contract with the Client or invest in the Client or any Affiliate of the Client.

## **19 Anti-corruption**

- 19.1 Each of the Parties shall:
  - 19.1.1 comply with all Applicable Law and regulations relating to anti-bribery and anti-corruption and not engage in any activity, practice or conduct anywhere in the world, which would constitute an offence under the Bribery Act if such activity, practice or conduct had been carried out in the UK; and
  - 19.1.2 promptly report to the other Party any request or demand which, if complied with, would amount to a breach of this clause 19.
- 19.2 Breach of this clause 19 shall be deemed a material breach of this Contract entitling the innocent Party or Parties to seek damages and/or terminate the Contract immediately, but without prejudice to any entitlements accrued (and in the case of the Company, without regards to any contingency contained in the Contract triggering its entitlements under the Contract) as at the date of such breach.

## **20 Amendments**

- 20.1 The Supply Letter may only be amended in writing signed by duly authorised representatives of each of the Parties.
- 20.2 The Company reserves the right to vary these Terms from time to time including during the term of the Contract, provided that no amendment shall be made to these Terms without the written consent of the Client is such amendment results in a material amendment to any term expressly (but not otherwise) stated in the Supply Letter:

20.3 Where the Company varies these Terms during the term of the Contract, the Company shall publish, without delay, an amended copy of these Terms and any variations thereto from time to time in force, on the Company's website at the address [www.mercatometropolitano.com/terms](http://www.mercatometropolitano.com/terms) or other suitably linked address as the Company shall decide and communicate to the Client from time to time and, upon the publication of any amendments to these Terms, the Client shall be deemed to have acknowledged and agreed such amendments to the Terms carried out in accordance, and subject to the limitations, of this clause 20. It is the responsibility of the Client to periodically check such link to the Company's website to ensure that they operate in accordance with the Terms in Force from time to time.

## 21 Notices

21.1 Any notice to be given under the Contract shall be in writing and shall be given under hand or may be sent by first class mail or air mail, or by facsimile or e-mail (confirmed by first class mail or air mail), to the address of the relevant Party set out at the head of the Supply Letter or such other address as that Party may from time to time notify to the other Party in accordance with this Clause.

21.2 Notices sent in accordance with clause 21.1 above, shall be deemed to have been received two Business Days after the day of posting (in the case of inland first class mail), or five Business Days after the date of posting (in the case of air mail). Email is not a valid method of serving a notice under the Contract.

21.3 In serving a notice pursuant to this clause 21, it shall be sufficient to prove that the notice was left to the correct address for the Party, or that the envelope containing the notice was properly addressed and posted.

## 22 General

22.1 *Entire Contract*: The Contract contains the whole Contract between the Parties in respect of the matters set out, and referred to, in the Supply Letter and in these Terms (as amended from time to time) and supersedes and replaces any prior written or oral Contracts, representations or understandings between them relating to such matters. The Parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract.

22.2 *Waiver*: No failure or delay by the Company in exercising any right, power or privilege under the Contract shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in the Contract are cumulative and not exclusive of any rights and remedies provided by law.

22.3 *Agency, partnership etc.*: The Contract shall not constitute or imply:

22.3.1 any partnership or joint venture between the Parties, unless the Parties otherwise agree in writing;

22.3.2 any agency or similar legal relationship;

22.3.3 any landlord/tenant or similar relationships between the Parties;

22.3.4 any employer/employee relationship between the Parties or any of their respective employees, agents, contractors or other Affiliates;

22.3.5 any fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Contract.

Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

22.4 *Further assurance*: Each Party shall, at the request and expense of the other or any of them, execute and do any deeds and other things reasonably necessary to carry out the provisions of the Contract or to make it easier to enforce it.

22.5 *Severance*: If any provision of the Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Contract and rendered ineffective as far as possible without modifying the remaining provisions of the Contract, and shall not in any way affect any other circumstances of or the validity or enforcement of the Contract.

22.6 *Law and jurisdiction*: The validity, construction and performance of the Contract shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties irrevocably submit.

22.7 *Third parties*: For the purposes of the Contracts (Rights of Third Parties) Act 1999, the Contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

**END OF DOCUMENT**