



Version 2.0

STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF SERVICES FOR THE ARLA FOODS GROUP OF COMPANIES

1.0 APPLICATION

1.1 These Terms shall apply to all of the Supplier's deliveries of Services to the Buyer.

1.2 These Terms take precedence over all of the Supplier's standard terms and conditions and any terms and conditions contained therein. Such terms and conditions shall be regarded as non-binding on the Buyer. This clause shall apply irrespective of whether such terms and conditions are printed on quotations, order confirmations, invoices issued by the Supplier or communicated to the Buyer in any other way, including by electronic transfer and whether issued at any time prior to or after these Terms.

1.3 Any deviation from these Terms shall be subject to an express written agreement between the parties. Unless otherwise expressly stated in such written agreement, these Terms shall supplement such a written agreement. In the event that an agreement has already been made between the parties containing terms and conditions, which apply to the Supplier's deliveries of the Services, such an agreement shall be superseded by these Terms.

1.4 Nothing in these Terms shall prejudice any condition or warranty express or implied or any legal remedy to which the Buyer may be entitled in relation to the Services the subject of a Contract by virtue of any statute, custom or any general law or local law or regulations.

1.5 If the Supplier as part of the Services shall supply goods, the supply of goods shall be subject to the Standard Terms and Conditions for the Purchase of Goods of the Arla Foods Group of Companies.

2.0 DEFINITIONS

2.1 "Buyer" means the company or companies identified as the purchaser of the Services in the Contract.

2.2 "Contract" means the agreement for the provision of Services entered into between the parties (including any Order placed by the Buyer and accepted and/or performed by the Supplier and any Service Level Agreement), and which incorporates and is subject to these Terms, and all terms and conditions implied by law.

2.3 "Force Majeure" means any event or circumstance preventing a party from performing any or all of its obligations which is beyond the reasonable control of the party so prevented except for any event or circumstance which the affected party could reasonably have avoided or provided against, or strike lock out or other industrial action taken by

the employees of the affected party or the employees or agents or sub-contractors of the affected party or any shortage of labour relating to the affected party or its agents or sub-contractors, or the inability of the affected party or its agents or sub-contractors to obtain supplies or the default of the affected party's agents or sub-contractors.

2.4 "Good Industry Practice" means the exercise of that degree of skill, diligence, prudence, foresight and practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged in providing services the same as or similar to the Services.

2.5 "Losses" means any and all awards damages fines penalties expenses legal remedies compensation costs (including legal costs) and all other liabilities whatsoever.

2.6 "Order" means the Buyer's purchase order howsoever given to the Supplier, including, without limitation, any order given in writing or by electronic or telephone means. The acceptance and/or performance of an Order by the Supplier shall constitute acceptance by the Supplier of these Terms.

2.7 "Replacement Supplier" means any third party supplier of services identical or substantially similar to all or part of the Services and which the Buyer receives in substitution for all or part of the Services following the termination or expiry of the Contract (and these Terms) appointed by the Buyer from time to time.

2.8 "Services" means all services described in the Contract and/or supplied by the Supplier to the Buyer under these Terms.

2.9 "Service Level Agreement" means a description of service levels to be attained by the Supplier in providing the Services agreed between the parties.

2.10 "Supplier" means the person, firm, company or other entity identified as supplier in the Contract.

2.11 "Supplier Staff" means all personnel employed or otherwise engaged by the Supplier and involved in the supply of the Services including permanent, temporary and contract labour.

2.12 "Terms" means the STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF SERVICES contained herein.



3.0 SUPPLY OF THE SERVICES – WARRANTIES

- 3.1 The Supplier guarantees to perform all elements of the Services in accordance with these Terms, the Contract and Good Industry Practice.
- 3.2 The Supplier shall ensure that in providing the Services it shall at all times comply, and it shall ensure that the Supplier Staff comply at all times, with all applicable legislation including, without limitation, all legislation relating to food safety and hygiene, environmental health, environmental protection, consumer protection, health & safety and welfare, fire precautions, employment, non-discrimination and data protection.
- 3.3 The Supplier warrants that it has the experience, skills and resources to perform the Services in accordance with the Contract.
- 3.4 The Supplier warrants that the performance of the Services will not infringe the rights of any third party.

4.0 SERVICE MANAGER

- 4.1 The parties will each appoint a single Service Manager (the “Buyer Service Manager” and the “Supplier Service Manager”). The Service Managers may be replaced by notification from the appointing party to the other party provided that any proposed change of the Supplier Service Manager shall require the prior written acceptance of the Buyer, such acceptance not to be unreasonably withheld.
- 4.2 The Supplier will ensure that the Supplier Service Manager will be responsible for the provision and quality of the Services by the Supplier on an operational basis and for the other matters remitted to him and will liaise with the Buyer Service Manager on all aspects of the Services. The Supplier shall authorize the Supplier Service Manager to act for and bind the Supplier in all matters relating to the Services.
- 4.3 The Buyer will ensure that the Buyer Service Manager will be responsible for monitoring the provision and quality of the Services on an operational basis and for the other matters remitted to him, and will liaise with the Supplier Service Manager on all aspects of the Services.

5.0 SUPPLIER STAFF

- 5.1 The Supplier shall ensure there are at all times sufficient, competent and properly trained and qualified Supplier Staff, agents or sub-contractors employed or engaged in, and adequate resources made available for, the provision and performance of the Services. No person shall be employed or engaged in or in connection with the provision or performance of the Services unless satisfactory references, in documentary form have been ob-

tained prior to the employment or engagement of such person.

- 5.2 If in the opinion of the Buyer Service Manager (acting reasonably) it would be conducive to the smooth provision or performance of the Services, that there is immediately removed from performance of the Services any of the Supplier’ Staff (including, without limitation, the Supplier Service Manager), or agent or sub-contractor who has committed an act of misconduct (whether in the course of his duties or not) or who is incompetent to perform his duties or whose performance is considered by the Buyer Service Manager (acting reasonably) to be undesirable for any other reason whatsoever, the Supplier shall ensure that such person is removed from the provision of the Services forthwith and is not re-engaged in providing the Services without the prior consent of the Buyer Service Manager.

- 5.3 The Supplier shall ensure that while any of the Supplier Staff or its agents or sub-contractors are on any of the Buyer’s premises they will comply with all the Buyer’s health & safety , security and other procedures applicable on the site. Additionally, the Supplier will ensure that all such persons shall comply with all the Buyer’s applicable procedures relating to access to buildings including the carrying, display and return of passes. The Buyer reserves the right to exclude any person from their premises for reasons of breach of such procedures.

6.0 REPORTS

- 6.1 The Supplier shall provide the Buyer with such management information and reports as specified in the Service Level Agreement, together with any other information, which Buyer may reasonably request from time to time regarding the Services.
- 6.2 The Supplier shall maintain up-to-date personnel records on the Supplier's Staff engaged in or assigned to the provision of all or part of the Services and the Supplier shall provide the Buyer (or any Replacement Supplier, as directed by the Buyer) with any information the Buyer may reasonably request relating to any such person within 7 days of any such request. The Supplier shall ensure that at all times it has the right to provide such information under Data Protection legislation.
- 6.3 The Supplier shall notify the Buyer immediately if it becomes aware of any circumstance, which may adversely affect the ability of the Supplier to provide the Services in accordance with these Terms and/or the Contract.
- 6.4 The Supplier and the Buyer shall meet regularly and as specified in the Service Level Agreement and shall keep minutes of their meetings and shall generally be available to communicate with each other on a daily basis. The Supplier and Buyer shall conduct a full review of the quality of the



Services provided by the Supplier at such periods, as the Buyer shall specify and as specified in the Service Level Agreement.

6.5 All reports shall be provided in formats and on media agreed between the parties from time to time.

7.0 INSPECTIONS AND AUDITS

7.1 The Buyer's representatives shall at any time be allowed to inspect and observe work being performed by the Supplier Staff and the Supplier's agents and sub-contractors at the Buyer's premises and the Supplier's own premises. Such inspections and observation shall occur during normal working hours and during other hours that are reasonable under the circumstances. The Buyer shall co-ordinate with the Supplier reasonably in advance. The Buyer shall conduct such inspections so as to avoid any undue disruption to work in progress.

7.2 The Buyer may require an independent audit of the Services in which event the Buyer shall appoint the auditor and shall pay the auditor's costs.

7.3 The Supplier shall maintain full and accurate records and accounts as set out in the Contract relating to the provision of the Services. The Supplier shall retain such records and accounts for the duration of the Contract and for a minimum of five years following its expiry or termination. The Supplier shall permit the Buyer and the Buyer's internal and external auditors to inspect all such records and accounts of the Supplier relating to the Services to enable the Buyer to comply with the Buyer's internal and external audit requirements. The Buyer's rights of audit of records and accounts shall remain in force for a period of five years following the completion, expiry or termination of the Contract.

8.0 TERM AND TERMINATION

8.1 These Terms shall be applicable to all Contracts between the parties always provided that either party may terminate the application of these Terms by giving no less than three months' advance notice to terminate and such termination shall take effect at the end of the third month. Such termination shall not affect any Contracts entered into prior to the date of termination.

8.2 At least 6 months before the expiry of any Contract or following notice of early termination of any such Contract or following notice of termination of these Terms pursuant to Clause 8.1 above whichever is the earlier the Supplier shall not without the prior written consent of the Buyer (such consent not to be unreasonably withheld or delayed) make, propose or permit any changes to the terms and conditions of employment of any employees performing all or part of the Services or increase the proportion of working time spent on the Ser-

vices (or the relevant part) by any of the Supplier's Staff or replace any of the Supplier's Staff or deploy any other person to perform the Services (or the relevant part) or increase the number of employees performing all or part of the Services or assign additional employees to provide the Services (or the relevant part) or terminate or give notice to terminate the employment or contracts of Supplier Staff.

8.3 In the event of the Supplier's repeated or material breach of any of its obligations under the Contract, or in the event of a change in the ownership or control of the Supplier, or if the Supplier at any time for any reason is either prevented from or unable to perform its obligations under a Contract, or if the Supplier makes or offers to make any arrangement with its creditors, or becomes insolvent, or has a receiver appointed of its business, or is compulsorily or voluntarily wound up, the Buyer shall be entitled at its discretion, and without prejudice to any other remedy, to suspend the performance of or to terminate the Contract, and in the event of termination to keep or take possession of any goods or of any items belonging to the Buyer and to enter any premises of the Supplier for that purpose.

8.4 The above rights of termination of the Contract are without prejudice to any other rights of termination available to the Buyer under the Contract or the law.

8.5 These Terms shall continue in full force and effect notwithstanding any expiry, termination or completion of the Contract.

9.0 INDEMNIFICATION

9.1 The Supplier undertakes and agrees to indemnify the Buyer from and against all claims, damages, costs, losses and liabilities incurred by or awarded against or paid by the Buyer as a result of or in connection with any breach by the Supplier, Supplier Staff, or the Supplier's agents or sub-contractors of any provisions of the Contract including these Terms or any act or omission of the Supplier, Supplier Staff, or the Supplier's, agents or sub-contractors.

10.0 INSURANCE

10.1 The Supplier shall be at all times adequately insured with a reputable insurer against all insurable liability under the Contract and against any legal liability (including, without limitation, employer's liability, and public liability) incurred by the Supplier in connection with the provision of the Services and any injury or damage suffered by any of the Supplier Staff, or the Supplier's agents or sub-contractors whilst working at the Buyer's premises and arising from the negligence of the Supplier, Supplier Staff, or the Supplier's agents or sub-contractors.



10.2 The Supplier shall produce to the Buyer on request a copy of the policy or policies and evidence of its/their renewal and payment of premiums.

11.0 FORCE MAJEURE

11.1 A party is not liable for a failure to perform any of its obligations if it proves that the failure was due to a Force Majeure and that it could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the Contract or to have avoided or overcome it or its consequences.

11.2 A party wishing to call upon the exemption under Clause 11.1 above shall promptly notify the other party in writing of the commencement and cessation of any such Force Majeure and use all reasonable efforts to mitigate the effects of such impediment on the other party.

11.3 A ground for relief under Clause 11.1 above relieves the failing party from damages and other contractual sanctions and further postpones the time for performance for such period as may be reasonable. In determining what is a reasonable period, regard shall be had to the failing party's ability to resume performance despite the delay. Pending resumption, the other party may suspend its own performance.

11.4 Notwithstanding the above, if any act or matter relied upon by the Supplier for the purposes of Clause 11.1 above shall continue for more than 60 sixty days, the Buyer shall be entitled to terminate the Contract with immediate effect.

12.0 INTELLECTUAL PROPERTY RIGHTS

12.1 Any discoveries, inventions, improvements, processes, designs, drawings, documentation and other materials ("Items") produced by or for or on behalf of the Supplier solely for the purposes of the Supplier providing the Services to the Buyer and/or as a result of performing the Contract shall be the exclusive property of the Buyer. Furthermore the Supplier shall treat (and shall ensure that all Supplier employees, agents and sub-contractors treat) all such Items as confidential information of the Buyer. Any and all intellectual property rights, including copyright, in all such Items shall be owned exclusively by the Buyer and the Supplier will provide the Buyer with all information, documentation and materials, which the Buyer may reasonably request for the purpose of allowing the Buyer to fully protect and exercise its proprietary rights in those Items.

12.2 The Supplier hereby irrevocably and unconditionally assigns to the Buyer its whole right, title and interest, in and to all intellectual property rights, present and future in any Items. The Supplier shall at the Buyer's request and expense do, procure and execute all necessary acts, deeds, documents and things for effectively vesting such

rights in the Buyer and shall, at the Buyer's request and expense, provide the Buyer with all reasonable assistance required to vest the same in the Buyer in any part of the world.

12.3 The Supplier shall indemnify and hold harmless the Buyer against any claims, damages, losses, costs, expenses and liabilities incurred by the Buyer as a result of any claim or action that the provision of the Services or any part thereof to the Buyer infringes the intellectual property rights of a third party.

13.0 PRICE

13.1 The prices for the Services shall be as stipulated in the Contract. Unless otherwise agreed in writing, the price shall be inclusive of all charges for delivery, carriage, packing, packaging and duties, exclusive of VAT.

13.2 Introduction of a new currency in the country where the parties or either of them has its registered office shall not affect the parties' rights and obligations under the Contract. If the currency of the Contract is replaced by a new currency, all amounts due under the Contract shall automatically be converted to the equivalent amount in the new currency.

13.3 No variation of the price shall be accepted without the prior written consent of the Buyer.

14.0 PAYMENT

14.1 The terms of payment are set out in the Contract. Payment shall be effected by the Buyer, where not prevented by legislative restrictions, at the place of payment indicated by the Supplier, provided that such place of payment is situated in the country in which the Supplier is domiciled.

14.2 The payment of invoices issued by the Supplier shall not be tantamount to the Buyer's acceptance of the price stated in such invoices, nor of the quality or quantity of the Services delivered.

14.3 The Buyer shall be entitled to set off any liability of the Buyer to the Supplier against any liability of the Supplier to the Buyer (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency of its denomination) and may for such purpose convert or exchange any currency. Any exercise by the Buyer of its rights under this Clause shall be without prejudice to any other rights or remedies available to the Buyer under the Contract or these Terms or otherwise.

14.4 The Buyer shall pay invoices no later than 60 days following the later of presentation of invoice or receipt of Services.



15.0 CONFIDENTIALITY

- 15.1 Each party shall keep confidential all information (written or oral) concerning the business and affairs of the other party and any specifications, drawings, diagrams, patterns or other materials that it shall have obtained or received or created as a result of the discussions leading up to or the entering into or the performance of the Contract, shall only use such information in the proper performance of the Contract and shall not without the other party's written consent disclose such information in whole or in part to any other person save those of its employees, sub-contractors and agents involved in the implementation of the Contract and who have a need to know the same and shall ensure that all such persons comply with the Supplier's obligations in this Clause 15.1.
- 15.2 The Supplier's obligations in Clause 15.1 shall not apply to information that is already in the public domain other than as a result of a breach of Clause 15.1.

16.0 PUBLICITY

- 16.1 Neither party shall without the prior written consent of the other advertise or publicly announce the subject matter of these Terms and/or the Contract. The Supplier shall not use any information, photograph or other material relating to the Services or the premises in any marketing or publicity material without the prior written consent of Buyer.
- 16.2 The Supplier shall not permit any third party to enter Buyer's premises without the prior written consent of the Buyer.

17.0 BUSINESS ETHICS

- 17.1 The Supplier shall, in providing the Services, act in the best interests of the Buyer and shall not, without the prior written consent of Buyer, participate in any business activity which may create a conflict of interest between the Supplier and the Buyer.
- 17.2 The Supplier shall not, directly or indirectly, reward or offer to reward any employee, agent or sub-contractor of the Buyer entering into the Contract or for requesting the supply of any Services or for doing or refraining from doing anything in connection with the Services and the Contract. If requested the Supplier will promptly provide the Buyer with access to the Supplier's records to verify that the Supplier has complied with this undertaking.

18.0 MISCELLANEOUS

- 18.1 Severability: If any provisions of these Terms and/or the Contract is or shall become invalid or unenforceable in whole or in part, the other provisions of these Terms and/or the Contract shall remain fully valid and enforceable.
- 18.2 Applicable for the UK: A legal entity or person who is not a party to the Terms and/or the Contract shall have no rights pursuant to the Terms and/or the Contracts (Rights of Third Parties) Act 1999 (the "Act ") to enforce any term of the Contract. Any right or remedy of a third party, which exists or is available apart from the Act, is not affected.
- 18.3 Amendments: The validity of amendments and additions to these Terms and/or the Contract shall be contingent upon their being made in writing and duly signed by the parties.
- 18.4 Waiver: No waiver by either party of any breach of any of these Terms or other provisions of the Contract shall constitute a waiver of any other prior or subsequent breach, and neither party shall be affected by any delay, failure or omission to enforce or express forbearance granted in respect of any obligation of the other party.

19.0 CHANGE IN CONTROL/SUBCONTRACTORS

- 19.1 In the event that assets and debts, in the Buyer are transferred to a third party, the Supplier accepts that the third party shall hereafter be a party to the Contract. A change or transfer in the ownership or control of the Buyer shall not be deemed a breach of the Buyer's obligations hereunder.
- 19.2 Assignment and Sub-contractors: The Supplier shall not be entitled to assign or subcontract any performance of its obligations under the Contract without the Buyer's prior written consent. If the Buyer consents to the sub-contracting or assignment by the Supplier of its obligations the Supplier shall remain responsible for the performance of the Contract. Further, the Supplier shall procure that any sub-contractor shall comply with these Terms and the Supplier's obligations under the Contract, as if it was a party thereto.
- 19.3 The Buyer may assign any of its rights and obligations under these Terms and the Contract without the consent of the Supplier.

20.0 RELATIONSHIP OF THE PARTIES

- 20.1 The relationship of the parties is that of independent contracting parties. Nothing in these Terms and/or the Contract shall be construed as creating a partnership, agency or joint venture between the parties.
- 20.2 The Supplier shall remain responsible for the payment of all salaries, wages and other employee benefits and employer's contributions in relation to the Supplier Staff and for all payments to its agents and sub-contractors. Nothing in these



Terms and/or the Contract or the fact that Supplier Staff, or the Supplier's agents and sub-contractors are located on the Buyer's premises shall be construed to establish any contract of employment or other contract between the Buyer and any of the Supplier Staff or the Supplier's agents or sub-contractors.

20.3 If any provision of law has the effect of transferring to the Supplier, the contracts of employment of any employees of the Buyer or its sub-contractors during or on the commencement of the Contract and/or these Terms (as determined by the Buyer), the Supplier shall perform and discharge all of its obligations under any such law, including co-operating with the Buyer to ensure that any requirement to inform and consult employees and/or employee representatives is fulfilled and the Supplier shall indemnify the Buyer in full against any and all Losses in any way directly or indirectly connected with or arising from or relating to any actions proceedings claims demands orders in any way directly or indirectly connected with or arising from or relating to:

- (i) any failure by the Supplier to comply with any such obligations; and
- (ii) any act or omission of the Supplier or any other matter, event or circumstances in respect of any such employee on or after any such transfer.

20.4 Nothing in the Contract shall have the effect of transferring to the Buyer, nor is it intended that any provision of law shall have the effect of transferring to the Buyer, the contracts of employment of any employees of the Supplier or its agents or sub-contractors.

20.5 Notwithstanding Clause 20.4 above if any provision of law has the effect of transferring to the Buyer (or a Replacement Supplier), the contracts of employment of any employees of the Supplier or its agents or sub-contractors during or on the termination of the Contract and/or these Terms (as determined by the Buyer), the Supplier shall perform and discharge all of its obligations under any such law, including co-operating with the Buyer or a Replacement Supplier (as directed by the Buyer) to ensure that any requirement to inform and consult employees and/or employee representatives is fulfilled (the "**Obligations**").

20.6 If as a result of the Contract and/or the application of any law, an employee, former employee or other person working for the Supplier or its agents or sub-contractors shall become or otherwise be deemed to be or shall claim to have become an employee of the Buyer or a Replacement Supplier:

- (i) the Buyer or Replacement Supplier may (as soon as practicable after becoming aware of such fact) terminate such employment immediately ("**Employment Termination**");
- (ii) the Supplier shall indemnify the Buyer and/or a Replacement Supplier (as directed by the Buyer)

in full against any and all Losses in any way directly or indirectly connected with or arising from or relating to any actions proceedings claims demands orders in any way directly or indirectly connected with or arising from or relating to:

- (a) any failure by the Supplier to comply with the Obligations;
- (b) any act or omission by the Supplier or any other matter, event or circumstances in respect of any such employee, former employee or other person working for the Supplier or its agents or sub-contractors;
- (c) any Employment Termination; and
- (d) any transfer of liabilities and/or duties in relation to any such employee, former employee or other person working for the Supplier or its agents or sub-contractors to the Buyer or a Replacement Supplier;

(together the above to be known as the "**Claims**")

(iii) the Buyer and/or a Replacement Supplier may settle or compromise any Claims and may require the Supplier to indemnify it and/or them (as directed by the Buyer) against any and all Losses arising out of or in connection with so doing;

(iv) the Buyer and/or a Replacement Supplier may defend any Claims and may require the Supplier to indemnify it and/or them (as directed by the Buyer) in full against any and all Losses arising out of or in connection with so doing;

(v) the Supplier shall take such action and provide such assistance, information and/or documentation in connection with any Claims as the Buyer or any Replacement Supplier may from time to time reasonably request (as directed by the Buyer);

(vi) the Supplier shall provide the Buyer, Replacement Supplier and/or their professional advisers and experts with access from time to time to such members of staff as they may require to assist the Buyer or a Replacement Supplier (as directed by the Buyer) with the preparation of its and/or their cases in relation to any Claims, including permitting such employees as the Buyer or its professional advisers may reasonably request to meet with the Buyer, Replacement Supplier and/or their legal advisers in normal working hours to prepare witness statements for hearing, attend any meetings and/or to attend any court hearing or trial in connection with any Claims;

20.7 The Supplier shall indemnify the Buyer and/or a Replacement Supplier (as directed by the Buyer) in full against any and all Losses arising directly or indirectly out of or in connection with or related to any act or omission by the Supplier or any other matter, event or circumstances in respect of any other employee, former employee or other person working for the Supplier or its agents or sub-



contractors whether before, on or after the termination of the provision of the Services (or any part thereof) by the Supplier.

themselves to the jurisdiction of the courts in such country.

21.0 GOVERNING LAW AND VENUE

21.1 These Terms and the Contract shall be governed by and interpreted in accordance with the laws in Denmark and the parties hereby submit themselves to the jurisdiction of the courts in Denmark. Legal proceedings shall to the extent permissible be instigated at the Maritime and Commercial Court of Copenhagen (Sø- og Handelsretten).

21.2 Notwithstanding the above, in the event that the Supplier is domiciled outside Denmark and has entered into a Contract with a Buyer incorporated outside Denmark these Terms and the Contract shall be governed by and interpreted in accordance with the laws in force in the country of incorporation of the Buyer and the parties submit