

## Terms & Conditions of Sale

### 1. GENERAL

1.1 In these terms and conditions the **“Buyer”** means any party who agrees to purchase Products from Sysco Ireland; an **“Affiliate”** means, in relation to a party to these Terms and Conditions, any person who is “connected” to such party as defined in section 10 of the Taxes Consolidation Act, 1997; an **“Affiliated Account”** means any account whatsoever held by the Buyer or an Affiliate of the Buyer with Sysco Ireland; **“Contract”** means the contract between Sysco Ireland and the Buyer for the sale and purchase of the Products in accordance with these Terms and Conditions; the **“Equipment”** means all equipment which is sold, distributed, rented or supplied by or on behalf of Sysco Ireland including, but not limited to, any fridges, coffee machines or dispensing machines; **“Invoice”** means an invoice or delivery docket issued to the Buyer by Sysco Ireland in connection with an order received from the Buyer to purchase Products; **“Sysco Ireland”** means together and individually: Sysco Foods Ireland Unlimited Company (registered in Ireland with company number 188507) including by its trading names including Pallas, Pallas Foods or Pallas Green; Sysco Foods NI Limited (registered in Northern Ireland with company number NI066355); GHS Classic Drinks Limited (registered in Ireland with company number 387013); Pallas Foods Farm Fresh Unlimited Company (registered in Ireland with company number 126277); Crossgar Foodservice Limited (registered in Northern Ireland with company number NI020409); Arnotts (Fruit) Limited (registered in Northern Ireland with company number NI034859); Pallas Foods UK branch (no FC031924 with UK Establishment no BR 016994, trading as Crossgar Pallas); and any of their respective Affiliates, as defined in section 10 of the Taxes Consolidation Act, 1997 (each a member of Sysco Ireland); **“Products”** means all products sold, distributed or supplied by Sysco Ireland; and **“Terms and Conditions”** means these terms and conditions of sale as may be amended by Sysco Ireland from time to time without notice. References to “Ireland” in these Terms and Conditions do not include Northern Ireland unless expressly stated.

1.2 These Terms and Conditions will apply to all sales of Products and sale or rental of Equipment (as applicable), and no variation or purported variation (including in particular any terms and conditions on the Buyer’s contract or order form, or any terms implied by trade, custom or practice or course of dealing) will have effect unless expressly agreed to in writing on behalf of Sysco Ireland.

1.3 A Contract will be deemed to be concluded between the Sysco Ireland and the Buyer in respect of the purchase of Products and/or sale or rental of Equipment (as applicable) when Sysco Ireland acknowledges acceptance of the Buyer’s order or commences delivery of the Products or Equipment to the Buyer, whichever occurs earlier.

1.4 The contractual rights which the Buyer enjoys by virtue of sections 12, 13, 14 and 15 of the Sale of Goods Act, 1893 (as amended) are in no way prejudiced by anything contained in these Terms and Conditions save (if the Buyer is not dealing as consumer or in the case of an international sale of Products) to the extent permitted by law.

### 2. TRANSFER OF OWNERSHIP

2.1 All Products will remain the property of the relevant member of Sysco Ireland until that member has received payment in full for all sums due and owing on any account by the Buyer or any Affiliate of the Buyer. Sysco Ireland shall at all times retain all right, title and interest in all Equipment.

2.2 If the Buyer sells or otherwise disposes of the Products before payment in full as aforesaid has been made, the Buyer will in such case hold all monies received from such sale or disposal in trust for Sysco Ireland.

2.3 So long as the property in the Products and the Equipment remains in Sysco Ireland, the Buyer will hold the Products as bailee for Sysco Ireland and will store the Products so as to clearly show them to be the property of Sysco Ireland, and Sysco Ireland will have the right, without prejudice to the obligations of the Buyer to purchase the Products, to require the Buyer to deliver up the Products and/or Equipment, or to retake possession of the Products and/or the Equipment (and for that purpose to go upon any premises occupied by the Buyer).

2.4 Nothing in this clause will confer any right upon the Buyer to return the Products. Sysco Ireland may maintain an action for payment in respect of any Products notwithstanding that property in the Products has not vested in the Buyer.

2.5 The Buyer will not in any way pledge or charge by way of security for any indebtedness any Products or Equipment which remain the property of Sysco Ireland.

### **3. EQUIPMENT**

3.1 For such time as the Buyer has possession of any Equipment it shall:

3.1.1 be responsible for the maintenance of the Equipment in good and substantial repair;

3.1.2 be responsible for and ensure that the Equipment is used in a safe manner and at all times in accordance with usage instructions;

3.1.3 be responsible for loss or damage caused to the Equipment;

3.1.4 be responsible for loss or damage caused by the Equipment;

3.1.5 keep the Equipment at premises which are pre-approved by Sysco Ireland;

3.1.6 retain possession of the Equipment;

3.1.7 use the Equipment only for the designated purpose;

3.1.8 indemnify Sysco Ireland in respect of any losses, liabilities, claims, damages, costs or expenses arising out of or connected with any failure to comply with any of the terms contained in this clause 3.1, which may be suffered by Sysco Ireland or any of its Affiliates (and for the purposes of this clause 3.1, any loss suffered by any of Sysco Ireland's Affiliates shall be deemed to be a loss suffered by Sysco Ireland).

3.2 Sysco Ireland makes no warranties in respect of the Equipment. Sysco Ireland will, to the extent that it is able and upon the Buyer's request, at the sole cost and expense of the Buyer, assign or make available to the Buyer the benefit of any warranties or guarantees relating to the Equipment obtained from the manufacturer thereof.

#### **4. DELIVERY**

4.1 Any times quoted for delivery are estimates only and Sysco Ireland will not be liable for failure to deliver within the time quoted.

4.2 The Buyer shall give Sysco Ireland adequate delivery instructions, provide access to its premises and a reasonably accessible delivery location for the purpose of making the delivery, and use best endeavours to ensure that a responsible person is present at the delivery location to take delivery of the Products or Equipment. To the extent that the Buyer does not comply with these obligations, Sysco Ireland reserves the right to charge the Buyer for the cost of any failed delivery and any losses incurred as a result.

4.2 Sysco Ireland may make partial deliveries or deliveries by instalments, and the Terms and Conditions herein contained will apply to each such delivery.

4.3 Deviations in quantity of the Products (representing not more than 10 per cent by value) from that stated in the relevant Invoice will not give the Buyer any right to reject the Products or claim damages, and the Buyer will be obliged to accept and pay at the applicable price for the quantity of the Products delivered.

4.5 Where the Buyer collects Products from Sysco Ireland premises, the Buyer agrees to be solely responsible for the transportation of such Products in a manner that provides appropriate temperature and sanitary protection for the Products and in compliance with all applicable laws and regulations. In the event of any claims or charges of any kind against Sysco Ireland related to transportation of Products after being collected from Sysco Ireland premises, the Buyer shall fully defend and indemnify Sysco Ireland.

#### **5. RISK OF LOSS OR DAMAGE**

5.1 Notwithstanding that the property in the Products may not have passed to the Buyer, the Buyer will carry all risk of loss of and damage to the Products from the time when the Products are delivered to them and section 32(2) and (3) of the Sale of Goods Act, 1893 will not apply.

5.2 From when the risk of loss of and damage to the Products commences to be carried by the Buyer until Sysco Ireland is paid in full for the Products, the Buyer will:

5.2.1 indemnify and keep indemnified Sysco Ireland against all losses, liabilities, claims, damages, costs or expenses suffered by Sysco Ireland or its Affiliates arising out of or connected with any loss of and damage to the Products and against any reduction in the re-sale value thereof below the price to be paid therefor by the Buyer (and for the purposes of this clause 5.2.1, any loss suffered by any of Sysco Ireland's Affiliates shall be deemed to be a loss suffered by Sysco Ireland);

5.2.2 insure and keep insured the Products in an amount at least equal to the price to be paid therefor by the Buyer; and

5.2.3 hold upon trust for Sysco Ireland absolutely all proceeds of such insurance.

5.3 For the purposes of this clause the Products shall include Equipment.

## **6. PRICES AND PRODUCTS**

6.1 Sysco Ireland reserves the right to, at any time prior to delivery, discontinue or change the specification of any Product without prior notice.

6.2 Unless otherwise agreed in writing, all prices will be as specified in the relevant Sysco Ireland Invoice and will be exclusive of VAT and any other applicable taxes.

6.3 Sysco Ireland reserves the right at any time prior to delivery of the Products to adjust the price of any Product including, but not limited to, to take account of any increase in costs.

6.4 Unless otherwise stated, the price includes cost of delivery to the Buyer's address agreed between Sysco Ireland and the Buyer.

6.5 Any drawings, descriptions or serving suggestions contained in catalogues, brochures or sales material or on websites of any member of Sysco Ireland are produced for the sole purpose of giving an approximate idea of the Products and shall not have any contractual force.

## **7. TERMS OF PAYMENT**

7.1 Where Sysco Ireland is satisfied with the creditworthiness of the Buyer, Sysco Ireland may at its absolute discretion grant credit to the Buyer. Where credit is granted, all payments will be made by the Buyer in accordance with the credit terms and payment terms stipulated by Sysco Ireland as amended from time to time by written notice to the Buyer. Unless otherwise stipulated, all Invoices must be settled in full without deductions within 14 days from the end of the calendar month in which the invoice was raised. Where Sysco Ireland does not grant credit to the Buyer, payment will be made to Sysco Ireland upon or before delivery of orders. Sysco Ireland reserves the right to demand the deposit of cash on account in respect of the supply of Products, as may be agreed with the Buyer from time to time.

7.2 Where credit has been granted to the Buyer, Sysco Ireland reserves the right to review the creditworthiness of the Buyer from time to time. In the event that such review reveals, in the opinion of Sysco Ireland, any deterioration in the credit worthiness of the Buyer, or in the event of the Buyer entering into an insolvency arrangement, Sysco Ireland reserves the right, without limiting any other rights or remedies it may have, to withdraw, limit or otherwise vary the credit terms offered to the Buyer.

7.3 Sysco Ireland may, at its absolute discretion, offer rebates, discounts, allowances or credits to the Buyer. Any such rebates, discounts, allowances or credits offered by Sysco Ireland are subject to, and contingent upon, compliance by the Buyer and any Affiliate of the Buyer (in respect of all Affiliated Accounts) with these Terms and Conditions, and/or any other commercial terms or payment or credit terms agreed between the Buyer and Sysco Ireland. Sysco Ireland reserves the right to withdraw any of the Buyer's or any of its Affiliates' rebates, discounts, allowances or credits (whether accrued and/or paid or otherwise) where the Buyer or any Affiliate of the Buyer fails to comply with such terms. At all times Sysco Ireland, at its absolute discretion, reserves the right to revoke or to alter the terms on which such rebates, discounts, allowances or credits are granted.

7.4 Unless otherwise agreed in writing, payment must be received in full by Sysco Ireland in respect of all Invoices within such credit and payment terms as may be agreed with Sysco Ireland from time to time. If any amount remains due and payable thereafter Sysco Ireland may charge interest on overdue payments calculated on the day-to-day balance at a rate of interest equal to the higher of the European Central Bank's main refinancing rate plus 8% or the maximum available under applicable law. Unless otherwise stated the Buyer will pay such interest on demand. The interest may be charged and added to the balance of overdue payments and thereby compounded from time to time as Sysco Ireland may determine. A statement from Sysco Ireland as to the rate of interest applicable under this paragraph will, in the absence of manifest error, be conclusive.

7.5 Sysco Ireland reserves the right to seek the recovery of all legal and associated costs incurred when securing payment of overdue debts. Failure to pay by the due date shall entitle Sysco Ireland to suspend delivery of all unexecuted or future orders.

7.6 The Buyer may not set off any sums payable by or due from Sysco Ireland to it against any sums payable by or due by it to Sysco Ireland.

7.7 Sysco Ireland may, at its sole discretion and without notice, and without limiting any other rights or remedies it may have, set off and apply any sums (or any part thereof) payable by or due by it to the Buyer from time to time in or towards the satisfaction of any liabilities or account payable by or due to it from the Buyer on any account whatsoever. The Buyer hereby agrees that such set off is good and valid discharge of such sums without the need for further permission whatsoever.

7.8 Sysco Ireland retains the right to refuse to supply Products below such minimum quantity as it may specify from time to time.

7.9 In the event that the Buyer is not registered for Irish VAT or ceases to be so registered, it must notify Sysco Ireland immediately. Any loss or damage arising from a failure to so notify Sysco Ireland will be borne by the Buyer.

7.10 Sysco Ireland will not be bound by any arithmetical or clerical error that may occur in any calculation or document issued by it and reserves the right to adjust at any time any Invoices, rebates, discounts, allowances or credits and to seek settlement of such errors with the Buyer.

7.11 Nothing in this clause (other than the provisions of clauses 7.6 and 7.7) will be taken as limiting Sysco Ireland's rights under clause 9.

## **8. REMEDIES FOR DAMAGE OR DEFECTS**

8.1 The Buyer must, on receipt of a delivery, satisfy itself that Products received are within recommended time limits (the "**Best Before Date**") and are free from damage ("**Damaged Products**"). The Buyer will be deemed to be satisfied in this regard unless it immediately refuses to accept delivery.

8.2 The Buyer must notify Sysco Ireland within five days of discovery of any defect in the Products which gives rise to a breach of any applicable condition or warranty. The relevant products must be within their Best Before Date at the date of discovery ("**Defective Products**").

8.3 In respect of any Damaged Products or Defective Products Sysco Ireland shall at its sole option either repair or replace the Products or issue credit to the Buyer, provided that:-

8.3.1 the relevant Products are retained for collection by Sysco Ireland or returned to Sysco Ireland at the cost of the Buyer;

8.3.2 examination of such Products by Sysco Ireland discloses to its satisfaction that the damage or defect existed at the time of delivery and that a breach of an applicable condition or warranty has occurred and that the Products have not been affected by any act or omission of any party other than Sysco Ireland including, but not limited to, misuse, neglect, accident, improper storage, installation, handling or by repair or alteration not effected by Sysco Ireland; and

8.3.3 the Buyer will pay to Sysco Ireland the cost (as stated by Sysco Ireland) of any examination of the Products as a result of which Sysco Ireland does not admit liability.

8.4 No conditions and warranties other than those arising under section 12 of the Sale of Goods Act, 1893 (as amended) will apply in relation to any Products supplied by, but not produced by, Sysco Ireland, but Sysco Ireland will to the extent that it is able and upon Buyer's request pass to the Buyer the benefit of any guarantee, condition or warranty given to it by the relevant producer.

8.5 Sysco Ireland's liability for any claim, whether in contract, tort (including negligence) or otherwise, for any loss or damage arising out of or in connection with or resulting from the manufacture, sale, rental, delivery, re-sale, replacement or use of any of the Products and/or Equipment will in no case exceed the price paid by the Buyer to Sysco Ireland for the Products and/or Equipment (as applicable) which give rise to the claim. In no event will Sysco Ireland or any of its Affiliates be liable for any loss of profits, or special or consequential damages suffered by the Buyer or its Affiliates, including interest charges. Nothing contained in this paragraph will by implication create any liability or obligation on the part of the Sysco Ireland, or effect or diminish any disclaimer or liability elsewhere contained herein.

8.6 Except as expressly stated above, all other warranties, conditions and representations, express or implied, statutory or otherwise, in relation to the quality or fitness for any particular purpose of the Products are hereby excluded, and Sysco Ireland will not be liable in contract, tort or otherwise for any loss, damage, expense or injury of any kind whatsoever, consequential or otherwise, arising out of or in connection with the Products sold or any defect in them or from any other cause, whether or not any such matter amounts to a fundamental breach of a fundamental term of the Contract.

8.7 In any event, Sysco Ireland's liability in respect of any Product will end on the later of the relevant Product's Best Before Date or 3 months from the date of receipt of the Products by the Buyer.

8.8 The Buyer shall not reject any Products or cancel or purport to cancel the Contract or any part of it because of an alleged default unless and until Sysco Ireland has failed to correct such alleged default within thirty days of written notice specifying the default.

8.9 Nothing in this clause will be taken as in any way limiting or excluding any liability which Sysco Ireland may have to the Buyer under Section 2 of the Liability for Defective Products Act, 1991.

8.10 Nothing in these Terms and Conditions shall limit or exclude Sysco Ireland's liability for: (i) death or personal injury caused by Sysco Ireland's negligence; (ii) fraud or fraudulent misrepresentation; or (iii) any other matter in respect of which it would be unlawful for Sysco Ireland to exclude or limit liability, including under Section 2 of the Liability for Defective Products Act 1991.

8.11 Subject to 8.10, Sysco Ireland shall not be liable for any losses, expenses, claims or damages suffered or incurred by the Buyer (or any third party) to the extent they arise as a consequence of any damage or defect in a Product which was caused by its unsatisfactory storage, treatment or handling (other than by Sysco Ireland or its representatives) or any act or omission on the part of the Buyer or its employees, agents or representatives.

8.12 The Buyer shall ensure that no Product it purchases from Sysco Ireland is sold (or otherwise distributed) after any 'best-before' or 'use-by' dates included on the Products or their packaging. To the extent any Product is sold (or otherwise distributed) by the Buyer after any such date, it shall be at the Buyer's sole risk, and the Buyer shall indemnify and hold Sysco Ireland harmless against any losses, claims, expenses or damages it incurs howsoever relating to the same.

## **9. DEFAULT OF BUYER**

9.1 If the Buyer or any Affiliate of the Buyer:

9.1.1 fails to comply with these Terms and Conditions (including stipulations as to payment);  
or

9.1.2 commits an act of bankruptcy, makes an arrangement or composition with creditors or suffers any distress or execution; or

9.1.3 resolves or is ordered to be wound up or has a liquidator, receiver or examiner (or any equivalent officer) appointed; or

9.1.4 sells or stores the Products in a manner which is unacceptable to Sysco Ireland, as notified to the Buyer from time to time; or

9.1.5 is in arrears on any account with Sysco Ireland or any of Sysco Ireland's Affiliates; or

9.1.6 does anything which does, or has the capacity (in Sysco Ireland's opinion) to undermine or damage Sysco Ireland's reputation and/or brand and/or intellectual property rights; or

9.1.7 undergoes a change of control; or

9.1.8 Sysco Ireland reasonably apprehends that any event which is analogous with the above mentioned is occurring or is about to occur in respect of the Buyer or any Affiliate of the Buyer,

then, in any such event, Sysco Ireland will have the right (without further liability to the Buyer and without prejudice to any other remedies) to (a) cancel (in whole or in part) any uncompleted order; and/or (b) withhold or suspend (in whole or in part) delivery of further Products; and/or (c) demand payment immediately of all sums due by the Buyer to any member of the Sysco Ireland group; and/or (d) recover from the Buyer damages for any loss or damage suffered by any member of the Sysco Ireland group arising directly or indirectly from the breach; and/or (e) retake possession of any Products and/or Equipment and for that purpose to go onto any premises occupied by the Buyer or any Affiliate of the Buyer; and/or (f) withhold payment and/or cancel any entitlements to any rebates, discount allowances or credits (or anything analogous thereto) which are accrued but unpaid on that date; and/or (g) cancel any and all future rights of the Buyer or an Affiliate of the Buyer to such rebates,

discounts, allowances or credits or other like benefit; and/or (h) cancel any current and/or future credit arrangements with the Buyer or an Affiliate of the Buyer.

9.2 In the event that Sysco Ireland exercises any rights it may have to stop Products in transit or to seize Products, Sysco Ireland may at its option resell such Products at public or private sale without notice to the Buyer and without affecting Sysco Ireland's rights to hold the Buyer liable for any loss or damage caused by breach of Contract by the Buyer.

## **10. ALTERNATIVE AND SUPPLEMENTARY TERMS**

Sysco Ireland may at any time alter or supplement these Terms and Conditions, the most up to date version of which will be published on its website.

## **11. FORCE MAJEURE**

Sysco Ireland will not be under any liability of whatever kind for non-performance or delayed performance in whole or in part of its obligations under the Contract due to causes beyond the control of Sysco Ireland or beyond the control of Sysco Ireland's suppliers including, but not limited to, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, acts of the Buyer, any Affiliate of the Buyer or a third party, failure or delay in transportation, acts of any Government or any agency or sub-division thereof, Government regulations, judicial actions, labour disputes, strikes, embargoes, illness, pandemic, public health emergency, accident, fire, explosion, flood, tempest or other acts of God, delay in delivery to Sysco Ireland or Sysco Ireland's suppliers or shortage of labour, fuel, raw materials or machinery or technical failure. In any such event, Sysco Ireland may, without liability, cancel or vary the Contract including, but not limited to, extending the time for performing their obligations pursuant to the Contract for a period at least equal to the time lost by reason of such causes.

## **12. INTELLECTUAL PROPERTY**

12.1 Copyright and all other intellectual property rights in the Products shall remain at all times the property of Sysco Ireland. The Buyer shall acquire no rights in the Products except as expressly provided for in these Terms and Conditions.

12.2 The Buyer may not reproduce, copy, duplicate, transmit, publish, display, distribute or sell any material from the Sysco Ireland websites. The Buyer may not use the Sysco Ireland websites or their content for any commercial purpose (including the collection and use of any listings, descriptions, or prices), make any derivative or commercially exploitative use of the websites or their content, download or copy account information, use any data mining, robots or similar data gathering and extraction tools without the explicit written consent of Sysco Ireland. Any unauthorised use terminates any permissions granted.

## **13. CONFIDENTIALITY**



13.1 The Buyer undertakes that it shall not at any time disclose any confidential information concerning the business, affairs, customers, suppliers, pricing or other financial information of Sysco Ireland to any third party whatsoever other than as expressly permitted by this clause 13.

13.2 The Buyer may disclose Sysco Ireland's confidential information (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out its obligations to Sysco Ireland under the Contract, provided that such employees, officers, representatives and advisers to whom the Buyer discloses such information comply in full with this Condition; and (ii) as may be required by law, court order or any government or regulatory authority, provided that the Buyer gives as much advance notice of such disclosure to Sysco Ireland, as possible.

13.3 The Buyer shall not use Sysco Ireland's confidential information for any purpose other than to perform its obligations under the Contract.

13.4 Where the Buyer purchases from Sysco Ireland via a buying group or consortia ("**Buying Group**"), the Buyer consents to Sysco Ireland supplying to the Buying Group information relating to the Buyer's purchases, its account and payment history, or any other information requested by the Buying Group in connection with the Buyer's trading relationship with Sysco Ireland. The Buyer also consents to Sysco Ireland sharing confidential information with other entities within the Sysco Ireland group, including parents, subsidiaries or Affiliates of Sysco Ireland members.

#### **14. NOMINATED PRODUCTS**

14.1 "**Nominated Product**" means a Product which, at the request of the Buyer, Sysco Ireland has agreed to purchase from the supplier thereof and supply to the Buyer, either because it does not form part of Sysco Ireland's standard range of Products, or because the Buyer has agreed specific purchase terms for the Product directly with the supplier.

14.2 The Buyer shall be responsible for agreeing directly with the suppliers of Nominated Products all matters concerning Nominated Products including the specification and delivery conditions. Sysco Ireland shall have no responsibility for the selection of any supplier of Nominated Products or for their performance.

14.3 The Buyer shall be responsible for forecasting its requirements for any new Nominated Products for the first 6 weeks of the relevant supply.

14.4 Where Sysco Ireland has agreed to purchase Nominated Products, Sysco Ireland shall purchase Nominated Products from suppliers at the price agreed with the suppliers by the Buyer and on the basis of Sysco Ireland's procurement and payment terms and Supplier Charter from time to time in force. The Buyer shall procure the compliance of the nominated supplier with such terms and with any delivery instructions notified by Sysco Ireland.

14.5 For the avoidance of doubt, Sysco Ireland will not be liable to pay the nominated supplier for Nominated Products unless and until it has received full payment in cleared funds from the Buyer in respect of such Nominated Products. Where the Buyer has made only part payment of total amounts invoiced by Sysco Ireland, monies received will be allocated first to the payment of Sysco Ireland's wholesale product debt and then to Nominated Product stock ordered on the Buyer's behalf.

14.6 For the avoidance of doubt, in no circumstance will Sysco Ireland be liable to pay the supplier of Nominated Products for such Nominated Products except as set out in clause 14.5 above, including, but not limited to, where a deterioration of the Buyer's financial situation or its insolvency leaves it unable to pay its invoices in full to Sysco Ireland and Sysco Ireland is holding stock of Nominated Products. Where the Buyer has failed to order or pay for Nominated Product stock for any reason and Sysco Ireland is holding stock of Nominated Products, the supplier will be offered the opportunity to collect the Nominated Product stock from Sysco Ireland, or alternatively will instruct Sysco Ireland to dispose of such Nominated Products at the supplier's expense.

14.7 Sysco Ireland shall endeavour to set up new nominated suppliers within 28 days of the Buyer and the nominated supplier submitting complete and accurate information to Sysco Ireland, with the content and in the format required by Sysco Ireland from time to time.

14.8 The Buyer will give Sysco Ireland a minimum of 14 days' notice of changes in prices charged by nominated suppliers and a minimum of 28 days' notice of any new Nominated Products.

14.9 If the Buyer requires Sysco Ireland to cease deliveries of any particular Nominated Product (a "**Delisted Product**") it shall give Sysco Ireland not less than 14 days' notice of the date upon which it wishes Sysco Ireland to cease delivery thereof (the "**Delisting Date**").

14.10 If at the Delisting Date Sysco Ireland is still in possession of any surplus stock of the Delisted Product ("**Surplus Stock**"), Sysco Ireland and the Buyer shall co-operate to ensure that such Surplus Stock is sold, or otherwise disposed of, in the most cost-effective and ethical manner possible for both parties. However, if Sysco Ireland is still in possession of Surplus Stock within 14 days of the Delisting Date, the Surplus Stock shall be the responsibility of the Buyer.

14.11 The Buyer shall be responsible for any costs or losses resulting from Surplus Stock, or from the shelf life expiry, waste, discontinuance of stock, or unordered stock of Nominated Products at any time, including upon the termination for any reason of any Contract between Sysco Ireland and the Buyer. The Buyer will indemnify and hold harmless Sysco Ireland in respect of any liability, claims, or losses arising in connection with Nominated Product stock held by Sysco Ireland, including for the avoidance of doubt, any claim by a nominated supplier in relation to payment for such Nominated Product stock.

14.12 The Buyer shall be responsible for ensuring that all Nominated Products, when delivered to or collected by, Sysco Ireland, shall conform with all applicable laws, including, but not limited to: the Food Safety Act 1990 (as amended by the Food Standards Act, 1999); the Food Safety Authority of Ireland Act, 1998; Labelling / FIC: Regulation (EU) No 1169/2011; Hygiene Package (EC) No. 852/2004 and 853/2004 and regulation (EC) No. 178/2002; Microbiological Criteria Regulation (EC) No 2073/2005, Regulation (EU) 2017/625, Commission Delegated Regulation (EU) 2019/624, Commission Delegated Regulation (EU) 2019/625, Commission Implementing Regulation (EU) 2019/626, Commission Implementing Regulation (EU) 2019/627 and Commission Implementing Regulation (EU) 2019/628; and all local regulations and legislation. Sysco Ireland shall have no liability to the extent that this is not the case. In the event of any actions or claims of any kind against Sysco Ireland, and any liabilities or losses therefrom, related to the failure of Nominated Products to meet the requirements of this clause, the Buyer shall fully defend, indemnify and hold harmless Sysco Ireland.

14.13 The Buyer shall be responsible for ensuring that the Nominated Products are sourced from reputable suppliers who have achieved a nationally recognised product safety standard or have been formally assessed by the Buyer as acceptable on product safety, legality, and integrity grounds.

14.14 Sysco Ireland may refuse or remove any Nominated Product at any time by providing notice in writing to the Buyer.

14.15 Sysco Ireland shall not be obliged to carry out any checks or quality control inspections in relation to Nominated Products and Nominated Products are sold by Sysco Ireland to the Buyer on this basis.

14.16 Sysco Ireland shall be entitled to charge the Buyer in respect of the stocking and delivery of the Nominated Products (the "**Case Rate**"). Sysco Ireland shall be entitled to adjust the Case Rate at its sole discretion.

14.17 The Buyer acknowledges and agrees that the inability of Sysco Ireland to perform any part of the Contract by reason of the performance deficiencies of any of the suppliers of Nominated Products shall not be deemed to be a breach of the Contract by Sysco Ireland, and that, in such circumstances, the Buyer will pursue its remedies directly against the defaulting supplier of the Nominated Product and no such performance deficiencies shall be counted in the calculation of any service levels agreed between Sysco Ireland and the Buyer.

14.18 Unless otherwise agreed, Sysco Ireland may in its sole discretion delist any Nominated Product where the Buyer's requirement for such Product falls below 20 cases per week.

## **15. DATA PROTECTION**

15.1 "**Data Protection Legislation**" shall mean means any applicable laws concerning the protection of personal data or privacy to which the relevant party is subject, including: (i) the General Data Protection Regulation (EU) 2016/679 (the "**GDPR**"); (ii) any legislation which supplements the GDPR; and (iii) any legislation which implements the European Community's Directive 2002/58/EC, in each case as amended, supplemented or replaced from time to time. Capitalised terms used in this clause 15 and not defined elsewhere in these Terms and Conditions shall have the meaning given to such terms in the GDPR.

15.2 Both parties will comply with all applicable requirements of the Data Protection Legislation.

15.3 The parties acknowledge that for the purposes of the Data Protection Legislation, each party will act as an independent Controller in respect of any Processing of Personal Data carried out in connection with these Terms and Conditions. If and to the extent that the parties act as joint controllers, or one party acts as a processor on behalf of the other party, the parties shall promptly meet and negotiate in good faith to enter into an agreement which meets all applicable requirements under Data Protection Legislation in respect of such arrangement.

15.4 The Buyer will ensure that it has all necessary and appropriate consents and notices in place to enable the lawful transfer of the Personal Data to Sysco Ireland.

## 16. ANTI-FACILITATION OF TAX AVOIDANCE

16.1 The Buyer shall:

16.1.1 not engage in any activity, practice or conduct which would constitute either:

(a) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or

(b) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;

16.1.2 have and shall maintain in place throughout the term of the Contract such measures as are reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Buyer); and

16.1.3 promptly report to Sysco Ireland any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of the Contract;

16.2 The Buyer shall ensure that any person associated with the Buyer who is performing services in connection with the Contract does so in compliance with obligations equivalent to those imposed on the Buyer in Condition 16.1 (“**Relevant Tax Evasion Terms**”). The Buyer shall be responsible for the observance and performance by such persons of the Relevant Tax Evasion Terms, and shall be directly liable to Sysco Ireland for any breach by such persons of any of the Relevant Tax Evasion Terms.

For the purposes of Condition 16.1, the meaning of reasonable prevention procedures shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Buyer includes but is not limited to any subcontractor of the Buyer.

## 17. ADDITIONAL TERMS

17.1 The Buyer will not assign or transfer or purport to assign or transfer to any other person the Contract or the benefit thereof or the benefit of any condition, warranty or guarantee or other term or condition (express or implied) forming part thereof or relating to the Products.

17.2 Failure or delay on the part of Sysco Ireland in enforcing any provision of the Contract shall not be construed as a waiver of any of Sysco Ireland’s rights under the Contract. Any waiver by Sysco Ireland of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed to be a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

17.3 If any provision of the Contract is found by any Court, tribunal or other administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

17.4 Sysco Ireland may make available certain promotions from time to time. The Buyer shall be bound by any additional terms that apply to any promotions and the Buyer shall be responsible for ensuring the Buyer contact registered to receive the promotion is correct and updated accordingly from time to time.

17.5 The parties to the Contract do not intend that any term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

17.6 Telephone calls (inbound and outbound) and email correspondence with Sysco Ireland may be recorded or monitored. By using or accepting such communication methods, the Buyer agrees to the recording or monitoring of the same for quality purposes and training.

17.7 Any written communication given pursuant to the Contract must be sent by registered or first-class post to the registered office of the addressee or such other address as may have been notified in writing and shall be deemed to have been received by the addressee two days after the date of posting.

17.8 If the Buyer is a partnership the liability of the individual partners to Sysco Ireland shall be joint and several.

17.9 The signature on behalf of a Buyer who is a limited company by any person purporting to sign with the Buyer's authority shall bind the Buyer and the Buyer shall be liable to comply with the terms of the Contract.

17.10 The Buyer shall be liable to comply with the terms of the Contract and pay for any Products which are ordered using its Buyer account number.

## **18. GOVERNING LAW AND JURISDICTION**

This Contract will be governed and construed in all respects in accordance with the laws of Ireland and the Irish courts will have exclusive jurisdiction (except as set out in this clause 18) in respect of any disputes or claim (including non-contractual disputes or claims) relating to or arising from these Terms and Conditions. Where the Buyer's principal place of business is located or incorporated in Northern Ireland, nothing in this clause shall limit the right of any entity within the Sysco Ireland group or any of its Affiliates to take proceedings against the Buyer in the courts of Northern Ireland.

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