

TERMS AND CONDITIONS OF SALE

**For the Supply of Gluten-Free Oats, Oat milk, Cereals
and other products**

By

GLEBE FARM FOODS LTD

&

GLEBE FARM BEVERAGES LTD

TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 Definitions:

"Business Day"	means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
"Conditions"	means the terms and conditions set out in this document.
"Contract"	means the contract between the Supplier and the Customer for the sale and purchase of the Products in accordance with these Conditions.
"Customer"	means the person or firm who purchases the Products from the Supplier.
"Delivery Location"	has the meaning given in clause 3.2.
"Force Majeure Event"	means any circumstance not within a party's reasonable control including, without limitation, acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a government or public authority; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lock-outs; non-performance by suppliers of subcontractors; and interruption or failure of utility service.
"Products"	means the [gluten-free oat groats / flakes / flour/ cereals/ plant milks or other products] as set out in the Order.
"Order"	means the Customer's order for the Products, as set out in the Customer's written acceptance of the Supplier's quotation.
"Specification"	means any specification for the Products that is agreed in writing by the Customer and the Supplier.
"Supplier"	means Glebe Farm Foods Limited (registered in England and Wales with company number 06478787) whose registered office is at Yew Tree House, The Shrubbery, Church Street, St. Neots, Cambridgeshire, PE19 2BY and its subsidiaries including Glebe Farm Beverages Ltd (company number 11813059). Trading address for the Supplier is Glebe Farm, Kings Ripton, Huntingdon, Cambs PE28 2NL.

1.2 Interpretation:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.

- 1.2.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes fax and email.

2. **BASIS OF CONTRACT**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Products in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.
- 2.4 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.5 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.6 A quotation for the Products given by the Supplier shall not constitute an offer. A quotation shall only be valid for acceptance by the Customer for a period of three (3) Business Days from its date of issue unless otherwise specified.

3. **DELIVERY**

- 3.1 The Supplier shall ensure that each delivery of the Products is accompanied by a delivery note that shows the date of the Order, all relevant Customer and Supplier reference numbers, and the type and quantity of the Products (including the batch or consignment number of the Products, where applicable).
- 3.2 The Supplier shall deliver the Products to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Products are ready.
- 3.3 Delivery is completed on the completion of unloading of the Products at the Delivery Location.
- 3.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 3.5 If the Supplier fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement products of similar description and quality in the cheapest market available, less the price of the Products. The Supplier shall have no liability for any failure to deliver the Products to the extent that

such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

- 3.6 If the Customer fails to accept delivery of the Products within three Business Days of the Supplier notifying the Customer that the Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:
 - 3.6.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Products were ready; and
 - 3.6.2 the Supplier shall store the Products until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 3.7 If 10 Business Days after the day on which the Supplier notified the Customer that the Products were ready for delivery the Customer has not accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products or charge the Customer for any shortfall below the price of the Products.
- 3.8 If the Supplier delivers up to and including 3% more or less than the quantity of Products ordered the Customer may not reject them and shall pay for such Products at the pro rata Contract rate.
- 3.9 The Supplier may deliver the Products by batch instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect/contamination in a batch shall not entitle the Customer to cancel any other batch instalment.
- 3.10 In the case of Products with a limited life span, the conservation instructions must be strictly observed and in the absence of said strict observance no liability is accepted nor is any guarantee given by the Supplier.
- 3.11 If Products are provided with a sell-by date or a best-before date, the Supplier shall not accept any liability for these Products if these Products are consumed or used after the sell-by date or the best-before date.
- 3.12 The Customer shall ensure that the Products bearing a sell-by date are not offered for sale following the expiry of that date.
- 3.13 The Customer shall indemnify the Supplier and hold the Supplier harmless with respect to any and all claims from third parties by virtue of costs, losses, expenses or other damage resulting from the consumption or use of the Products if these have been incorrectly stored, processed and/or transported by the Customer or sold to third parties by the Customer after the expiry of the best-before date.
- 3.14 The Customer shall implement responsible and proper stock rotation practices in respect of the Products with the aim for Products to be used, processed and/or sold on a shortest remaining shelf-life basis.

4. **QUALITY AND COMPLAINTS**

4.1 The Supplier warrants that on delivery, the Products shall:

4.1.1 conform with their description and any applicable Specification; and

4.1.2 be free from material defects.

4.2 Except as provided in this clause 4, the Supplier shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 4.1.

4.3 The terms implied by sections 13 to 15 of the Sale of Products Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

4.4 These Conditions shall apply to any replacement Products supplied by the Supplier.

4.5 The Customer must check the Products (or have them inspected) upon delivery or as soon as possible but within the timescales for complaints set out below. In the event that any bag is found to be damaged on receipt, the Customer must send photographic evidence of such damaged bag to the Supplier as soon as practicable.

4.6 During this check, the Customer must verify in particular whether the Products delivered comply with the Order, including:

4.6.1 whether the right Products have been delivered;

4.6.2 which batches, bags or consignments do not comply with the Specification; and

4.6.3 whether the quantity and apparent quality of the Products (or batches, bags or consignments thereof) delivered comply with the Specifications agreed upon.

4.7 The Customer must not use the Products in its business, process or otherwise supply the Products on to a third party unless the Customer has taken all steps reasonably necessary to best food intake inspection practice to be satisfied that the Products are in accordance with the Contract.

4.8 The Customer must have proper and adequate quality control measures in place to stop any defective/contaminated Products supplied by the Supplier being used in or incorporated into other products or being sold on to a third party.

4.9 The Customer must cooperate with the Supplier in resolving any issues or complaints, including responding promptly to any technical questions or requests for clarification.

4.10 All warranties on the Products shall become void and the Supplier shall not be liable to the Customer for the proper quality of the Products:

4.10.1 as of the moment that the Customer has used the Products, has mixed or otherwise processed the Products, or has delivered the Products on to third parties, unless the Customer can show that it was not able in all reasonableness to identify the defect at an earlier stage;

4.10.2 if the defect/contamination arises because the Customer failed to follow the Supplier's oral or written instructions concerning the use, transport and storage of the Products;

- 4.10.3 if the defect/contamination arises as a result of the Supplier following any specification supplied by the Customer;
- 4.10.4 if the Customer alters such Products without the Supplier's written consent;
- 4.10.5 if the defect/contamination arises as a result of wilful damage, negligence, or abnormal storage or working conditions of the Customer; or
- 4.10.6 if the Products differ from their description or specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 4.11 Complaints regarding the nature or quantity of the Products delivered (that would be apparent upon a reasonable inspection) must be communicated to the Supplier in writing (setting out full details of the complaint) within two Business Days following delivery.
- 4.12 Products where the defect/contamination would not be apparent upon a reasonable inspection to good practice in the food industry must be communicated in writing to the Supplier by the end of the Business Day following the date that the Customer knew or ought reasonably to have known of the defect/contamination (having regard to the Customer's overall obligations in relation to the Products in this clause).
- 4.13 Any communications made to the Supplier in connection with clause 4.10 must describe the nature of the complaint in detail and identify the actual Products / batches the subject of the complaint.
- 4.14 The mere fact that the Supplier investigates a complaint shall not automatically imply that the Supplier acknowledges any liability in respect of such complaint.
- 4.15 If the complaint concerns some of the Products delivered, this shall not constitute a reason to reject the entire batch, unless the batch delivered cannot be deemed in all fairness fit for use.
- 4.16 In the event that the Customer wishes to reject the Products on the grounds above, the Customer must give the Supplier the opportunity to make a repeat inspection of the Products at the location where the Products were delivered following collection from the Supplier and they must still be in an untouched state. If the Supplier has not made such repeat inspection within 48 hours following the Customer's notification the Customer shall be entitled to store the Products elsewhere.
- 4.17 If the Customer's complaint is justified (and made in accordance with this clause), the Supplier shall have the choice to either replace the rejected and / or defective/contaminated Products (including shortfall in delivery) at the Supplier's expense or to credit the Customer for an amount equal to the price paid or owed by the Customer for the rejected and / or defective/contaminated Products at the pro-rata Contract rate.
- 4.18 The Customer shall return the rejected Products to the Supplier or destroy them (or have them destroyed) following the Supplier's prior consent in writing on conditions to be determined by the Supplier. The costs involved shall (subject to the Supplier's prior written approval which the Supplier shall not unreasonably withhold) be borne by the Supplier. If a return has been agreed with the Supplier, then the quantity of Products to

be returned to the Supplier must be communicated to the Supplier by the Customer in advance in writing.

- 4.19 The Customer shall notify the Supplier in writing if they dispute any part of any invoice within 5 Business Days after the date of such invoice. If an invoice is not disputed or queried by the Customer within 5 Business Days after the date of such invoice, the Customer shall be deemed to have accepted the invoice as a correct reflection of the corresponding transaction with the Supplier.
- 4.20 If a notice has not been received by the Supplier following expiry of the periods mentioned above, the Customer shall be deemed to have approved the Products delivered and/or to have approved the invoice respectively and the Customer shall be precluded from bringing any further claim or taking any action in connection with any defect/contamination covered by the clauses set out above.
- 4.21 Any complaint submitted by the Customer in accordance with these terms shall not entitle the Customer to suspend payment.
- 4.22 These terms shall apply to any replacement Products supplied by the Supplier.

5. **TITLE AND RISK**

- 5.1 The risk in the Products shall pass to the Customer on completion of delivery.
- 5.2 Title to the Products shall not pass to the Customer until the earlier of:
 - 5.2.1 the Supplier receiving payment in full (in cleared funds) for the Products in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums; or
 - 5.2.2 the Customer utilising or selling those Products, or incorporating those Products into other products, in the ordinary course of its business, in which case title to those Products shall pass to the Customer immediately before the time when the Products are irrevocably incorporated into other products or sold to a third party.
- 5.3 Until title to the Products has passed to the Customer, the Customer shall:
 - 5.3.1 store the Products (or batches thereof) separately from all other products held by the Customer so that they remain readily identifiable as the Supplier's property;
 - 5.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
 - 5.3.3 maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 5.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 8.1.2 to clause 8.1.4; and
 - 5.3.5 give the Supplier such information as the Supplier may reasonably require from time to time relating to:
 - 5.3.5.1 the Products; and
 - 5.3.5.2 the ongoing financial position of the Customer.

5.4 At any time before title to the Products passes to the Customer, the Supplier may require the Customer to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into other products and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

6. **PRICE AND PAYMENT**

6.1 The price of the Products shall be the price set out in the Order, subject to any amendment made in accordance with clause 6.2 below.

6.2 The Supplier may, by giving notice to the Customer at any time up to 10 Business Days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:

6.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, power, materials and other manufacturing or energy costs);

6.2.2 any request by the Customer to change the delivery date(s), quantities or types of Products ordered, or the Specification; or

6.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

6.3 The price of the Products excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.

6.4 The Supplier may invoice the Customer for the Products on or at any time after the completion of an Order.

6.5 Subject to clause 6.8 below, the Customer shall pay:

6.5.1 50% of the value of each invoice submitted by the Supplier immediately on receipt by the Customer prior to delivery of the Products, unless agreed otherwise in writing; and

6.5.2 50% of the value of each invoice submitted by the Supplier within 30 days of the date of the invoice (unless otherwise agreed in writing).

6.6 Payment shall be in full and in cleared funds to a bank account nominated in writing by the Supplier and time for payment shall be of the essence of the Contract.

6.7 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 8 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 6.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

6.8 The Supplier reserves the right to request that 100% of the value of each invoice submitted by the Supplier is paid in full on receipt by the Customer (prior to delivery of the Products) in the event that the Supplier has any concern in relation to the Customer's financial standing or ability to pay its creditors when debts fall due.

6.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. **LIMITATION OF LIABILITY**

- 7.1 The restrictions on liability in this clause 7 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence; fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the Sale of Products Act 1979; or defective/contaminated products under the Consumer Protection Act 1987.
- 7.3 If the Supplier is liable to the Customer pursuant to the warranty given in clause 4 above, this liability shall be limited at the Supplier's option either to the replacement of the specific Products (or batch) of inferior quality or to the refunding of the amount invoiced for these specific Products of inferior quality at the pro-rata Contract rate. Provided that the Supplier complies with this clause, the Supplier shall have no further liability for a breach of the warranty in clause 4 in respect of the quality of such Products.
- 7.4 For any other liability, subject to clause 7.2, the Supplier's total liability to the Customer shall be limited to the price of the Products set out in the Order or other sums payable by the Customer to the Supplier pursuant to the Contract.
- 7.5 Subject to clause 7.2, the following types of loss are wholly excluded: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and indirect or consequential loss.
- 7.6 This clause 7 shall survive termination of the Contract.

8. **TERMINATION**

- 8.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 8.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing to do so;
- 8.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 8.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 8.1.4 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy or the Supplier has any concern in relation to the Customer's ability to pay its creditors when debts fall due.
- 8.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Products under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 8.1.2 to clause 8.1.4, or the Supplier reasonably believes that the Customer is about to become

subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment or exceeds any credit limit agreed between the parties.

8.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

8.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Products supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

8.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

8.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

9. **FORCE MAJEURE**

9.1 Provided it has complied with clause 9.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement (except for the Customer's obligation to make payment of sums due in accordance with clause 6) by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

9.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

9.3 The Affected Party shall as soon as reasonably practicable after the start of the Force Majeure Event notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

9.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than three months, the party not affected by the Force Majeure Event may terminate this agreement by giving written notice to the Affected Party.

10. **ASSIGNMENT**

10.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract (with notice and agreement with the Customer).

10.2 The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

11. **ENTIRE AGREEMENT**

11.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

11.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

12. **VARIATION**

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13. **WAIVER**

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14. **SEVERANCE**

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 14 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. **NOTICES**

15.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or, in preference, to its principal place of business and trading address; or sent by email.

15.2 Any notice shall be deemed to have been received:

15.2.1 if delivered by hand, on signature of a delivery receipt;

15.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and

15.2.3 if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 15.2.2, business hours means 9.00am to 5.00pm on a Business Day.

15.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16. **THIRD PARTY RIGHTS**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

17. **GOVERNING LAW AND JURISDICTION**

17.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

17.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.