

**DAIRY CREST LIMITED TRADING AS SAPUTO DAIRY UK**  
**STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS**

**1. DEFINITIONS AND INTERPRETATION**

In these Conditions, the following definitions and rules of interpretation apply:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 14.9.

**Contract:** the contract between the Customer and the Supplier for the purchase of Goods in accordance with these Conditions.

**Control:** shall be defined as in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

**Customer:** Dairy Crest Limited (registered in England and Wales with company number 02085882) trading as Saputo Dairy UK or, if different, the member of the Group which has entered into the Contract with the Supplier.

**Customer Materials:** has the meaning set out in clause 8.

**Goods:** the goods (or any part of them) set out in the Order.

**Group:** Dairy Crest Group Limited (company no. 03162897) and any subsidiary of Dairy Crest Group Limited as defined in section 1159 of the Companies Act 2006.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Mandatory Requirements:** Modern Slavery Laws, Relevant Policies and Relevant Requirements.

**Modern Slavery Laws:** all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

**Order:** the Customer's order for the supply of Goods, as set out in the Customer's purchase order form or in the Customer's written acceptance of the Supplier's quotation or as otherwise recorded in writing or agreed between the parties.

**Relevant Policies:** the Customer's Supplier Corporate Responsibility Policy as updated from time to time and available on the Customer's website or on request from the Customer and any other policies which shall be notified to the Supplier from time to time.

**Relevant Requirements:** all applicable laws, statutes, regulations and codes relating to anti-bribery and corruption including, without limitation, the Bribery Act 2010.

**Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

**Supplier:** the person or firm from whom the Customer purchases the Goods.

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

**2. BASIS OF CONTRACT**

**2.1** The Order constitutes an offer by the Customer to purchase the Goods from the Supplier in accordance with these Conditions.

**2.2** The Order shall be deemed to be accepted on the earlier of: (a) the Supplier issuing written acceptance of the Order; or (b) any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (**Commencement Date**).

**2.3** These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

**2.4** These Conditions shall be incorporated into the Contract and any future contract between the Customer and the Supplier for the supply of the Goods.

**2.5** The purchase of the Goods by the Customer pursuant to the Contract, and each Order placed under it, shall be on a non-exclusive basis and the Supplier acknowledges that the Customer may appoint any other person to provide goods the same as, or similar to, the Goods.

**3. SUPPLY OF GOODS**

**3.1** The Supplier shall ensure and hereby warrants that the Goods shall: (a) correspond with their description and any applicable Specification; (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication,

and in this respect the Customer relies on the Supplier's skill and judgement; (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, production, labelling, packaging, storage, handling and delivery of the Goods including without limitation all food safety, hygiene and, where relevant, animal welfare standards.

**3.2** The Supplier shall ensure and hereby warrants that it shall (a) obtain and at all times maintain all licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods; and (b) comply with the Mandatory Requirements.

**3.3** The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

**3.4** If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance, at the Supplier's cost.

**3.5** The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

**4. DELIVERY OF GOODS**

**4.1** The Supplier shall ensure that: (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and (c) it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

**4.2** The Supplier shall deliver the Goods: (a) on the date specified in the Order or, if no such date is specified, then within 28 days of the date of the Order and time shall be of the essence as regards any delivery date and/or time; (b) to such location as is set out in the Order or as instructed by the Customer before delivery (**Delivery Location**); (c) during the Customer's normal hours of business, or as instructed by the Customer; and (d) in accordance with any Customer policies notified to the Supplier for delivery of Goods.

**4.3** Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

**4.4** If the Supplier (a) delivers less than 95% of the quantity of Goods ordered, or (b) delivers more than 105% of the quantity of Goods ordered, the Customer may reject the Goods or the excess Goods, and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

**4.5** The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 5.1.

**4.6** Title in the Goods shall pass to the Customer on the earlier of completion of delivery or on payment. Risk in the Goods shall pass to the Customer on completion of delivery.

**5. CUSTOMER REMEDIES**

**5.1** If the Supplier fails to deliver the Goods by the applicable date or fails to comply with the undertakings set out in clause 3, the Customer shall, without limiting any of its other rights or remedies, have the right to any one or more of the following remedies: (a) to terminate the Order or Contract with immediate effect by giving written notice to the Supplier; (b) to reject the Goods immediately (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense, or require the Supplier to collect the rejected Goods within 14 days of notification; (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid); (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make; (e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; (f) to require a refund from the Supplier of sums paid in advance for the Goods that the Supplier has not delivered; and (g) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

**5.2** These Conditions shall extend to any repaired or replacement goods supplied by the Supplier.

**5.3** The Customer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

**6. CHARGES AND PAYMENT**

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**6.1** The price for the Goods: **(a)** shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date, save that no increase in the price of the Goods may be made by the Supplier without at least 12 weeks' prior written notice to the Customer and the Customer's prior written consent; and **(b)** shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

**6.2** The Supplier shall invoice the Customer on or at any time after completion of delivery. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

**6.3** In consideration of the supply of Goods by the Supplier, the Customer shall pay the invoiced amounts within 60 days from receipt of a valid and undisputed invoice.

**6.4** All amounts payable under the Contract are exclusive of value added tax (VAT).

**6.5** If the Customer disputes any part of an amount invoiced by the Supplier, the Customer will notify the Supplier in writing of that dispute and the amount that it claims should have been invoiced. Provided the Supplier issues a credit note for the disputed sum the Customer shall pay that part of the invoice which is not disputed and will be entitled to withhold payment of the disputed sum.

**6.6** Save for where clause 6.5 applies, any undisputed sums payable by either party under the Contract which remain outstanding after the agreed date for payment shall carry interest (both before and after judgment) on a daily basis at an annual rate equal to 2% above the Bank of England base rate from time to time.

**6.7** The Supplier shall maintain complete and accurate records detailing all actions taken in connection with the performance of its obligations under the Contract, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

**6.8** The Customer may, without limiting any other rights or remedies it may have, set-off any amount owed to it or its Group by the Supplier against any amounts payable by it or its Group to the Supplier under the Contract or any other contract in force between the parties.

#### **7. CHANGE REQUESTS**

**7.1** At any point following the Order for the Goods, the Customer may request a change to the Contract (**Change**) and will notify such a change to the Supplier in writing setting out the details of the Change. Within 14 days of receiving a Change notice from the Customer, the Supplier shall prepare a written proposal on the impact of the Change (**Proposal**), including any revision to the price or delivery of the Goods and how it proposes to implement the Change. If the Supplier does not provide the Customer with the Proposal within this time frame, the Customer may, at its sole discretion terminate the Order or Contract.

**7.2** Upon receipt of a Proposal, the Customer may:

**(a)** accept the Supplier's Proposal and instruct the Supplier to proceed with the Change to the Goods; or **(b)** reject the Supplier's Proposal in which case the Customer can either: **(i)** terminate the Order or Contract; or **(ii)** instruct the Supplier to continue to supply the Goods in accordance with the original Contract.

#### **8. CUSTOMER PROPERTY**

The Supplier acknowledges that all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) and all rights in them are and shall remain the exclusive property of the Customer. The Supplier shall keep the Customer Materials in safe custody at its own risk, maintain them in good condition until returned to the Customer, and not dispose or use the same other than in accordance with the Customer's written instructions or authorisation.

#### **9. INDEMNITY**

**9.1** The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with any act or omission of the Supplier or its employees, agents, sub-contractors or suppliers (whether direct or indirect) in connection with the Goods and/or the Contract including but without limiting the generality of this clause: **(a)** any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods (excluding the Customer Materials); **(b)** any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with the Goods, as delivered; **(c)** any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered; and **(d)** any claim by the Supplier's employees or ex-employees, for breach of contract, unfair or wrongful dismissal, redundancy or any other claim whether statutory or contractual or otherwise, incurred by virtue of the application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any subsequent or related legislation.

**9.2** This clause 9 shall survive termination of the Contract.

#### **10. INSURANCE**

During the term of the Contract and for a period of six (6) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, employers liability insurance, professional indemnity insurance, product liability insurance and public liability insurance each with an indemnity limit of £5M to cover such heads of liability as may arise under or in connection with the Contract, and shall, on the Customer's request, provide to the Customer appropriate written evidence that such insurance is in place.

#### **11. CONFIDENTIALITY**

**11.1** Each party undertakes that it shall not at any time disclose to any person any confidential information including information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.

**11.2** Each party may disclose the other party's confidential information: **(a)** to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, sub-contractors or advisers to whom it discloses the other party's confidential information must comply with this clause 11; and **(b)** as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

**11.3** Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

#### **12. TERMINATION**

**12.1** Without affecting any other right or remedy available to it, the Customer may terminate the Order or Contract: **(a)** with immediate effect by giving written notice to the Supplier if **(i)** there is a change of Control of the Supplier; or **(ii)** the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or **(iii)** the Supplier commits a breach of clause 3.1(d) or 3.2; or **(b)** for convenience by giving the Supplier one month's written notice; or **(c)** in whole or in part at any time before delivery of the Goods with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for work-in-progress at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss or in respect of any Goods which the Supplier subsequently sells or is able to sell to any third party.

**12.2** Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if: **(a)** the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so or commits persistent breaches of any of the terms of the Contract; **(b)** the other party 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), 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 **(c)** the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

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

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

#### **13. FORCE MAJEURE**

Neither party shall be liable to the other for any delay or failure in performing its obligations under the Contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that both parties shall use all reasonable endeavours to cure any such events or circumstances and resume performance under the Contract. If any events or circumstances prevent either party from carrying out its obligations under the Contract for a continuous period of more than 30 days, either party may terminate this Contract immediately by giving written notice to the other party.

#### **14. GENERAL**

**14.1 Assignment and other dealings.** **(a)** The Customer may at any time assign, novate, transfer, charge, sub-contract, or deal in any other manner with all or any of its rights and obligations under the Contract. **(b)** The Supplier shall not assign, novate, transfer, charge, sub-contract or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

**14.2 Notices.** **(a)** Any notice or other communication 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 its principal place of business (in any other case). **(b)** A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a

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delivery receipt or at the time the notice is left at the proper address; 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. (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

**14.3 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

**14.4 Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**14.5 Sub-contractor.** The Supplier shall not sub-contract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any sub-contracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its sub-contractors as if they were its own.

**14.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

**14.7 Entire agreement.** The 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.

**14.8 Third party rights.** Except as expressly set out in the Contract, it is not intended that any third party shall have the right to enforce a provision of the Contract under the Contracts (Rights of Third Parties) Act 1999.

**14.9 Variation.** Any variation of the Contract, is not effective unless agreed in writing and signed by or on behalf of each of the parties.

**14.10 Governing law.** 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.

**14.11 Jurisdiction.** 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 the Contract or its subject matter or formation.

July 2019

<p>We agree that all Orders shall be placed on these Conditions.</p> <p>..... Signature</p> <p>..... Name</p> <p>..... Company</p> <p>..... Date</p>
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