

DAIRY CREST LIMITED

TERMS AND CONDITIONS FOR THE SALE OF GOODS

Please read these Conditions carefully and pay particular attention to Conditions 3.3 (Delivery), 6 (Warranty and Liability) and 11.8 (Entire agreement).

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for non-automated business.

Buyer: the person or firm who purchases the Goods from Seller.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with Condition 11.7. **Condition** shall be construed accordingly.

Contract: the contract between Seller and Buyer for the sale and purchase of Goods incorporating these Conditions.

Goods: the goods set out in the Order.

Group: Saputo Dairy UK Ltd (company number 11834952) and any subsidiary of Saputo Dairy UK Ltd.

Order: Buyer's order for the Goods in the format prescribed by Seller in its document titled "Order for the Sale of Goods" (as may be updated by Seller from time to time) or as otherwise made in writing by Buyer.

Seller: Dairy Crest Limited (company number 02085882) trading as Saputo Dairy UK and Wensleydale Creamery or, if different, the member of the Group which has entered into the Contract with Buyer.

Specification: the specification for the Goods that is agreed by the parties in the Order.

1.2 Any reference in these Conditions to any provisions of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings of these Conditions are for convenience only and shall not affect their interpretation.

1.4 Any words that follow 'including' and 'in particular' (or any similar words and expressions) shall be construed as illustrative only and shall not limit the sense of the words or terms preceding those words.

2. BASIS OF CONTRACT

2.1 These Conditions apply to each Order, and each Order will constitute a separate Contract, to the exclusion of any other terms that Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing (save that these Conditions will not override any written negotiated contract of a defined term entered into between the parties relating to specific goods and which has been signed by an authorised signatory of each of the parties).

2.2 The Order constitutes an offer by Buyer to purchase the Goods in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the earlier of (a) Seller countersigning the Order; and (b) Seller fulfilling the Order, at which point the Contract shall come into existence. Seller is not bound to accept any Order.

3. DELIVERY

3.1 In accordance with the applicable terms agreed in the Order, delivery of Goods shall be made either: (a) when Seller delivers the Goods to the agreed delivery location specified in the Order; or (b) when Buyer collects the Goods from the agreed place specified in the Order.

3.2 Seller may deliver or make available the Goods by separate instalments. Where this is the case, each instalment shall be deemed to be a separate Contract and no cancellation of any one Contract relating to an instalment shall entitle Buyer to cancel any other Contract or instalment.

3.3 Any dates and times quoted or agreed for delivery of the Goods are approximate only and are not of the essence unless otherwise expressly agreed by the parties in writing with reference to this Condition 3.3. Seller shall not be liable for any delay in delivery of the Goods howsoever caused. The Goods may be delivered by Seller in advance of the quoted delivery date upon giving reasonable notice to Buyer. Delay in delivery shall not entitle Buyer to terminate the Contract unless such delay exceeds thirty (30) days.

3.4 If for any reason Buyer fails to accept delivery of any of the Goods when they have been delivered (in accordance with Condition 3.1), or Seller is unable to deliver the Goods on time because Buyer has not provided appropriate instructions, documents, licenses or authorisations, Seller may (at its sole discretion) store the Goods at Buyer's risk until actual delivery, whereupon Buyer will indemnify Seller on demand for all related costs and expenses (including storage and insurance).

4. RISK AND PROPERTY

4.1 Risk of damage to or loss of the Goods shall pass to Buyer: (a) in the case of Goods to be collected by Buyer, at the time when the Goods are made available for collection by Seller; or (b) in the case of Goods to be delivered by Seller, at the time of delivery by Seller. In each case, risk shall pass to Buyer whether or not Buyer fulfils its obligations to collect the Goods or accept delivery (as the case may be).

4.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, the property in the Goods shall not pass to Buyer until Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by Seller to Buyer for which payment is then due.

4.3 Until such time when the property in the Goods passes to Buyer, Buyer shall hold the Goods as bailee for Seller and shall keep the Goods separate from those of Buyer and third parties and properly stored, protected, insured and identifiable as Seller's property. Buyer shall take reasonable care of the Goods and keep them in the condition in which they were delivered. Buyer shall not remove or alter any mark on, or packaging of, the Goods. On reasonable notice to Buyer, Seller may inspect the Goods (on Buyer's or any third party's

premises) during normal business hours. Buyer shall provide Seller with such information concerning the Goods as Seller may request from time to time.

4.4 Until such time when the property in the Goods passes to Buyer, Buyer shall pay to Seller any proceeds of sale of the Goods received by Buyer, including insurance proceeds, and shall keep all proceeds separate from any monies or property of Buyer or third parties.

4.5 Until such time when the property in the Goods passes to Buyer, Seller shall be entitled at any time to require Buyer to deliver up the Goods to Seller and, if Buyer fails to do, to enter upon any premises of Buyer and/or any third party where the Goods are stored to re-possess the Goods.

5. CANCELLATION OF ORDERS

Orders may only be cancelled by Buyer on written notice and on payment to Seller of cancellation charges which take into account expenses incurred and commitments already made by Seller as a consequence of Buyer having placed its Order.

6. WARRANTY AND LIABILITY

6.1 Seller warrants that the Goods shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and shall at the time of delivery correspond with the Specification and comply with all applicable mandatory laws relating to food supplies of the relevant kind and if packaged then the Goods shall comply with all applicable UK statutory labelling requirements. All other conditions, warranties and representations expressed or implied by statute, common law or otherwise in relation to the Goods are excluded to the fullest extent permitted by law.

6.2 Seller's only obligation (and Buyer's exclusive remedy) in relation to short or non-delivery caused by Seller shall be (at Seller's option) to make good any shortage or non-delivery or refund the price paid for the missing Goods (if payment has been made). Seller's only obligation (and Buyer's exclusive remedy) in relation to defective Goods caused by Seller shall be (at Seller's option) to send replacement Goods or refund the price paid for the defective Goods (if payment has been made). For the avoidance of doubt, all further Goods supplied pursuant to this Condition 6.2 shall be supplied in accordance with the same delivery terms that applied to the original Goods under the Contract.

6.3 Seller shall not be liable to Buyer in respect of any Goods which have been altered, used, or sold on by Buyer or in which a defect has arisen as a result of a failure by Buyer to follow Seller's instructions as to the storage or use of the Goods or good trade practice.

6.4 Seller shall not be liable to Buyer for the unsuitability of the Goods for mixing with other goods or substances unless Buyer has made full disclosure of all material facts and in particular standards, requirements, ingredients and specifications with which the Goods should conform.

6.5 Seller's total aggregate liability to Buyer under the Contract whether in tort (including negligence), breach of contract, breach of statutory duty or otherwise shall in no circumstances exceed the total charges payable by Buyer under the Contract.

6.6 Seller shall not be liable to Buyer for any indirect or consequential loss or damage.

6.7 Seller shall not be liable for loss of: profit, expenditure, income, revenue, data, contracts, use, production, opportunity, savings, discount, rebate, reputation, goodwill, property (or property damage); in each case howsoever caused and whether deemed to be direct or indirect.

6.8 Nothing in these Conditions shall exclude or limit Buyer's duty to mitigate its loss or exclude or limit Seller's liability: (a) for death or personal injury caused by Seller's negligence; (b) for fraud or fraudulent misrepresentation; (c) under section 2(3) of the Consumer Protection Act 1987; or (d) for any matter for which it would be illegal for Seller to exclude or limit its liability.

7. PRICE AND PAYMENT

7.1 The prices of the Goods shall be the prices agreed by Seller and Buyer in writing, or in the absence of any written agreement, the prices in Seller's price list in force at the time the Order is made. Unless otherwise agreed by the parties in writing, delivery charges shall be payable in addition to the prices of the Goods and shall be based on the delivery charges agreed by the parties in writing or, in the absence of a written agreement, Seller's applicable delivery charges in force at the time the Order is made. All prices and delivery charges are expressed exclusive of VAT which will be due and payable by Buyer in addition.

7.2 Seller may invoice Buyer for payment of the price of the Goods (and any delivery charges) in GBP on or at any time after delivery of the Goods. Buyer shall pay Seller's invoices in full and cleared funds within thirty (30) days of the date of each invoice. Payment shall be made to the bank account nominated in writing by Seller. Any credit note issued by Seller shall quote the relevant Order number, invoice number and Seller's depot (if applicable).

7.3 Seller shall have the right at any time to withdraw any discount from its prices and to increase prices to take account of inflation and/or increases in costs including costs of any Goods, manufacturing processes, materials, carriage, labour or overheads, the increase or imposition of any tax, duty or other levy and any variation in exchange rates.

7.4 If Seller agrees to deliver the Goods other than at Buyer's premises, Buyer will indemnify Seller on demand for any and all transportation, insurance, duties, taxes and delivery costs incurred by Seller in delivering the Goods to Buyer.

7.5 If Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available to Seller, Seller may (a) terminate the Contract and/or suspend any further deliveries to Buyer; and/or (b) charge interest to Buyer on the overdue amount at the rate of 2% per annum above the base rate of Royal Bank of Scotland from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. Buyer shall pay the

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interest together with the overdue amount. This Condition shall not apply to payments Buyer disputes reasonably and in good faith.

7.6 Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless Buyer has a valid English court order requiring an amount equal to such deduction to be paid by Seller to Buyer.

7.7 Seller may, without limiting any other rights or remedies it may have, set off any amount owed to it or Group by Buyer against any amounts payable by it or Group to Buyer under the Contract or any other contract in force between the parties.

8. CONFIDENTIAL INFORMATION

Each party agrees that it will keep confidential and not disclose, whether directly or indirectly, any confidential information belonging to the other, except where any such disclosure is strictly required by a court or regulator in England and Wales. Each party may disclose received confidential information to their own respective employees, professional advisors and sub-contractors on a need-to-know basis; provide those recipients are subject to legally binding confidentiality obligations. In this Condition, 'confidential information' means all information of a confidential nature (in any form) which is disclosed to, or otherwise obtained by, a party (whether directly or indirectly) including: the other party's know-how, intellectual property rights, trade secrets and financial, pricing, commercial, technical, strategic, marketing and customer information, staff information, product information and any other information agreed to be or marked as confidential or which a party knows, or could be reasonably expected to know, is confidential.

9. TERMINATION

9.1 Seller shall have the right to terminate the Contract with immediate effect by giving written notice to Buyer if: (a) Buyer suffers financial difficulties that (in the opinion of Seller) could adversely affect Buyer's performance of the Contract; (b) Buyer ceases or suspends or threatens to cease or suspend all or substantially the whole of its business; (c) Buyer brings the reputation of Seller into disrepute or does anything likely to cause harm to Seller's reputation; (d) Buyer materially breaches or commits persistent breaches of any of the terms of the Contract; or (e) there is a change of control of Buyer.

9.2 Where termination occurs in accordance with Condition 7.5 or 9.1, Buyer shall indemnify Seller on demand for all of Seller's costs reasonably incurred up to and including the date of effective termination.

9.3 Each of the termination trigger events described in Condition 9.1 (a) to (d) (inclusive) shall constitute a material breach of the Contract by Buyer.

9.4 If Buyer becomes aware that any event has occurred, or circumstances exist, which may entitle Seller to terminate the Contract, it shall immediately notify Seller in writing.

10. FORCE MAJEURE

10.1 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 reasonably have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that both parties shall use reasonable endeavours to cure any such events or circumstances and resume performance under the Contract. If any such events or circumstances prevent or delay either party from carrying out its obligations under the Contract for a continuous period of more than thirty (30) Business Days, either party may terminate the Contract immediately by giving written notice to the other party.

10.2 In the event of termination under Condition 10.1 by either party, Buyer shall pay to Seller all reasonable costs and expenses incurred by Seller up to and including the effective date of termination.

11. GENERAL

11.1 **Assignment and subcontracting.** Seller may assign, novate, transfer, and/or subcontract any of its rights and/or obligations under the Contract without Buyer consent. Buyer may not assign, novate, transfer and/or subcontract any of its rights and/or obligations under the Contract without Seller's prior written consent.

11.2 **Notices.** Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to the Company Secretary of that party at its registered office (if it is a company) or its principal place of business (in any other case). Notices may be delivered personally, by pre-paid first-class post, by commercial courier or by e-mail (only if email addresses for notices have been agreed by the parties in the Order). A notice or other communication shall be deemed to have been received: (a) if delivered personally, when left at the address for that party; (b) if sent by pre-paid first-class post, at 9.00am on the second Business Day after posting (the first Business Day being the next Business Day after the date of posting); (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; and (d) if sent by e-mail, at 9.00am on the next Business Day after the day of sending (provided no failure to send notification or out of office is received). The provisions of this Condition shall not apply to the service of any court proceedings or other documents in any litigation.

11.3 **Severance.** If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

11.4 **Third party rights.** If Buyer uses or sells the Goods in such manner as to infringe any rights of a third party, Seller shall not be responsible for such infringement nor for any alleged infringement arising from Buyer's action in

relation to the Goods and Buyer hereby agrees to indemnify Seller on demand for and against all liability arising as a result. Buyer shall not make any representations, warranties or guarantees with reference to Goods supplied by Seller except such as are consistent with these Conditions. Neither Seller nor Buyer intend that any term of the Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

11.5 **No partnership or agency.** Nothing in the Contract constitutes, or will be deemed to constitute, a partnership between the parties nor make any party the agent of another party.

11.6 **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy or any single or partial exercise of such 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 preclude or restrict the further exercise of that or any other right or remedy.

11.7 **Variation.** Any variation to the Contract shall only be binding when agreed in writing by both parties with reference to this Condition 11.7.

11.8 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral, in respect of its subject matter. Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract, except in the case of fraudulent misrepresentation.

11.9 **Governing law and jurisdiction.** The parties agree that all disputes (contractual and non-contractual) related to the Contract and/or its subject matter will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

April 2022