**AGREEMENT FOR THE PURCHASE OF SERVICES**

This Agreement is made up of the following:

* + - * Part 1 - The Contract Details.
      * Part 2 - The Conditions.
      * Part 3 - The Schedule.

If there is any conflict or ambiguity between the terms of the documents listed above, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

**PART 1 - CONTRACT DETAILS**

|  |  |
| --- | --- |
| **Contract No:** | [CONTRACT NUMBER] |
| **Commencement Date:** | [DATE] |
| **Supplier:** | [COMPANY NAME] LIMITED (No. [NUMBER]) |
| **Supplier's address:** | [ADDRESS] |
| **Supplier's representative:** | Name: [NAME]  Title: [TITLE]  Email: [EMAIL]  Telephone: [Telephone]  Postal Address: [POSTAL ADDRESS] |
| **Supplier's VAT number:** | [NUMBER] |
| **Customer:** | Meadowvale Foods Ltd (No. **02420250**) |
| **Customer's address:** | Morton, Oswestry, Shropshire, SY10 8BH |
| **Customer's representative:** | Name: [NAME]  Title: [TITLE]  Email: [EMAIL]  Telephone: [Telephone]  Postal Address: [POSTAL ADDRESS] |
| **Customer’s VAT number:** | [NUMBER] |
| **Recipient:** | Name: [NAME]  Title: [TITLE]  Email: [EMAIL]  Telephone: [Telephone]  Postal Address: [POSTAL ADDRESS] |
| **Approved Subcontractors:** | [List subcontractors approved by the Customer] |
| **Services:** | [DESCRIPTION] |
| **Key Deliverables:** | [DESCRIPTION] |
| **Price:** | The price for the Services set out in Schedule 1. |
| **Payment Terms:** | [30] days |
| **Notice Period:** | [30] days’ notice in writing |
| **Minimum Insurance Requirement:** | £[5] million |
| **Schedule:** | Schedule 1: Services Description (including performance dates), Specification and Price |

This Agreement has been entered into on the date stated at the beginning of it.

|  |  |
| --- | --- |
| **SUPPLIER’S AGREEMENT** | |
| Signed and agreed for and on behalf of the Supplier by a duly authorised director: |  |
| Director’s name (in block capitals): |  |
| Date: |  |
| **CUSTOMER’S AGREEMENT** | |
| Signed and agreed for and on behalf of the Customer by a duly authorised representative: |  |
| Director’s name (in block capitals): |  |
| Date: |  |

# PART 2 - Terms & Conditions OF PURCHASE

# Interpretation

## **Definitions:**

Agreement: means the agreement between the Supplier and the Customer for the sale and purchase of the Services and comprising Contract Details, these Conditions, the Order, the Policies and the Schedule as amended from time to time in accordance with these Conditions.

Approved Subcontractor: any subcontractor approved by the Customer pursuant to clause 3 and specified in the Contract Details.

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

Conditions: these terms and conditions as amended from time to time in accordance with clause 14.4.

Contract Details: means the contract details set out at Part 1 of this Agreement.

Control: shall have the meaning set out in section 1124 of the Corporation Tax Act 2010.

**Customer Materials**: all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier.

Deliverables: all documents, products and materials developed by the Supplier or its agents, Approved Subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts), and the Key Deliverables set out in the Contract Details.

**Insolvency Event**: means a situation where a party cannot pay its debts as they fall due, has a petition for winding up or an administration order presented against it or passes a resolution for winding up or calls any meeting of its creditors or proposes to make any arrangement with its creditors, has a receiver (administrative or otherwise) or an administrator appointed over all or any part of its business or assets, goes into liquidation, is subject to any equivalent event or proceedings under the laws of any other jurisdiction or if any of the above circumstances become reasonably likely to happen.

**Intellectual Property Rights**: means all intellectual property or industrial rights of any type in any state or country, whether registered or unregistered. This includes all applications (or rights to apply) for, and renewals or extensions of, these rights and all similar or equivalent rights or forms of protection which exist now or will exist in the future in any part of the world.

**Loss**: means any liability, loss (including any direct, indirect or consequential losses, loss of profit, loss of reputation and any other loss), damage, interest-charge, penalty, cost or expense (calculated on a full indemnity basis) and all legal and other professional fees and expenses.

Order: The Customer’s order for the Services submitted in writing.

**party**: a party to this Agreement.

**Policies**: means any of the Customer’s policies and instructions (as amended from time to time) displayed on its website from time to time.

Recipient: the person or firm listed in the Contract Details who receives the Services.

**Services**: the services (or any part of them) set out in the Order.

Specification: any specification for the Services that is agreed in writing by the Customer and the Supplier.

Supplier: the person or firm listed in the Contract Details who supplies the Services to the Customer.

## **Interpretation:**

### A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

### Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### Any reference to a **person** in these Conditions includes natural people, firms, partnerships, corporate bodies and corporations, associations, organisations, governments, states, foundations, trust and other unincorporated bodies (whether or not they have a separate legal personality and no matter what country or state they are based in or come from).

### A reference to **writing** or **written** includes emails.

# The services

## This Agreement forms the terms and conditions which apply to the supply of Services between the Supplier and the Customer 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. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with this Agreement.

## Unless agreed otherwise in writing, the Customer does not have to buy any Services from the Supplier (and there will be no related binding contract) until the Customer has given the Supplier an Order for the Services.

## The Supplier accepts that time is of the essence in carrying out its obligations under any Order or this Agreement and any failure by the Supplier to meet its deadlines shall be treated as a material breach of this Agreement.

## Nothing in this Agreement means that the Supplier will supply the Services to the Customer exclusively.

## In providing the Services, the Supplier shall:

### ensure that the Services and Deliverables conform in all respects with the service description and Specification and any other instructions provided to the Supplier by the Customer and/or the Recipient and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;

### co-operate with the Customer in all matters relating to the Services;

### perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

### only use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;

### appoint or, at the written request of the Customer, replace without delay a manager, who shall have authority to contractually bind the Supplier on all matters relating to the Services;

### provide all equipment, tools and vehicles and such other items as are required to provide the Services;

### ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;

### obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

### comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services, and with the Policies;

### observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer 's or the Recipient’s premises;

### not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;

### hold all Customer Materials in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation; and

### notify the Customer in writing immediately upon the occurrence of a change of control of the Supplier.

# Title to deliverables and customer materials

## Title to any Deliverables that are goods or in any physical media on which Deliverables are stored and title to any goods or materials transferred to the Customer as part of the Services shall pass to the Customer on the earlier of their delivery to the Customer or payment of the Price for them. The Supplier transfers the Deliverables and all such goods and materials to the Customer free from all liens, charges and encumbrances.

## All Customer Materials are the exclusive property of the Customer.

# approved subcontractors

## The Supplier shall not sub-contract any part of its obligations under this Agreement or any Order without the Customer’s prior written approval and any subcontractor so approved shall be specified in the Contract Details as an Approved Subcontractor.

## The Supplier shall be fully responsible for those elements performed by the Approved Subcontractors and for the acts and omissions of all its Approved Subcontractors to the same extent as its own acts and omissions.

## The Supplier shall maintain all records and documentation in relation to such Approved Subcontractors including, without limitation, such information in relation to the Approved Subcontractors as may be requested from the Supplier under clause 5.4 and shall preserve such documents for three years after termination of this Agreement. Such records and documentation shall be made available to the Customer as part of the Customer’s rights of audit under this Agreement.

# Warranties

## The Supplier warrants that it shall fully comply with all laws, regulations, codes of practice and government orders which apply to each Order including, but not limited to, those relating to tax, data protection and privacy, exchange controls, customs matters, anti-bribery and anti-corruption, anti-trust, anti-money laundering, trade sanctions and criminal matters.

## The Supplier warrants that:

### the performance of the Services will conform in all respects with all applicable laws and standards; and

### it has all necessary licences, permissions, authorisations, permits and warranties needed to allow it to supply the Services to the Customer.

## The Supplier will immediately notify the Customer in writing should any warranty in this clause 5 be untrue at any point.

## The Supplier shall, if requested to do so by the Customer, promptly provide the Customer with such information as the Customer may reasonably request in relation to the supply of Services to the Customer under this Agreement, including information in relation to the Supplier’s management and compliance with all technical and regulatory requirements.

# Non-conformance

## If, during performance of the Services, the Customer determines that the performance of the Services (in whole or in part) does not conform to any of the warranties set out in clause 5 or implied by law then, without prejudice to any other remedies the Customer may have, the Customer shall be entitled to:

### terminate the Agreement with immediate effect (in whole or in part and without liability to the Supplier); and

### refuse to take any subsequent performance of the Services; and

### suspend any current or future Orders for Services under the Agreement or any products or services under any other contract between the Customer and the Supplier; and

### to recover from the Supplier any costs incurred by the Customer in obtaining substitute services from a third party; and

### require the Supplier to promptly refund any sums paid in advance to the Supplier by the Customer in respect of Services that the Supplier has not yet provided; and

### claim damages for any additional Loss the Customer may have sustained which is in any way attributable to the Supplier's failure to meet delivery dates or the Specification.

## The Customer shall be under no obligation to pay the Supplier in respect of rejected Services or products.

## Without limiting its other rights or remedies, the Customer may suspend any current or future orders for Services under the Agreement or for any products under any other contract between the Customer and the Supplier if the Supplier is subject to an Insolvency Event.

## The terms of the Agreement shall apply to any substituted or remedial services performed by the Supplier.

# Price and payment

## The price of the Services shall be the price set out in the Order or the Contract Details or such other price is as otherwise agreed between the Customer and the Supplier. Any variation to the price shall be agreed between the Customer and the Supplier in writing.

## The price of the Services shall:

### exclude amounts in respect of value added tax (**VAT**), which, if applicable, shall be payable by the Customer to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

### include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

## The Supplier may invoice the Customer for the Services on or at any time after the completion of delivery in accordance with procedures laid down by the Customer from time to time. The Supplier shall include the relevant purchase order number on each invoice. For the avoidance of doubt, the Customer may reject any invoice that does not contain the correct purchase order number.

## The Customer shall pay each correct invoice in full and in cleared funds in accordance with the payment terms set out in the Contract Details. Payment shall be made to the bank account nominated in writing by the Supplier.

## If the Customer disputes any invoice or other statement of monies due, the Customer shall notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 7.4.

## The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and shall allow the Customer to inspect such records at all reasonable times on request.

## The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Agreement. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Agreement or otherwise.

# Termination

## Without prejudice to any other rights or remedies to which the Customer may be entitled, the Customer shall be entitled to terminate or suspend the Agreement or any Order (whether in whole or in part) immediately, without liability in the event that the Supplier:

### commits any breach of any provisions of the Agreement which is not capable of remedy or in the event of a breach capable of remedy which has not been remedied within 14 days of written notice from the Customer specifying the breach and requesting its remedy; or

### commits more than one breach of the Agreement, the cumulative effect of which is that the Customer believes the Supplier would continue to deliver a substandard performance; or

### has, in the reasonable opinion of the Customer, brought or permitted to be brought the name or business of the Customer into disrepute; or

### has undergone a change in Control; or

### suffers an Insolvency Event.

## The Customer may otherwise terminate the Agreement by giving to the Supplier such period of notice in writing as is specified in the Contract Details.

## Termination of the Agreement 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 this Agreement that existed at or before the date of termination.

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

## On termination of the Contract for whatever reason:

### the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and

### the Supplier shall, if so requested by the Customer, provide all assistance reasonably required by the Customer to facilitate the smooth transition of the Services to the Customer or any replacement supplier appointed by it.

# Limitation of liability

## Nothing in these Conditions shall limit or exclude a party’s liability for:

### death or personal injury caused by its negligence, or the negligence of its employees, agents or Approved Subcontractors (as applicable);

### fraud or fraudulent misrepresentation;

### any matter in respect of which it would be unlawful to exclude or restrict liability.

## The Supplier shall indemnify the Customer fully against any Loss, claim or action the Customer may suffer in relation to the Services including:

### to do with the Supplier’s supply of the Services;

### to do with the Supplier’s delay or error in delivery of the Services;

### relating to the Supplier’s failure to follow any reasonably practicable instructions of the Customer or the Recipient of which the Supplier has notice;

### any claim brought against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services; or

### any other claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services.

## The Supplier's total liability to the Customer in respect of all Losses arising under or in connection with the Agreement (other than those arising under clause 9.1, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the limit of the Supplier’s product liability insurance specified under clause 10.

# Insurance

## The Supplier shall take out and maintain public/product liability insurance with a reputable insurer in respect of all Services supplied pursuant to this Agreement on an all risks basis at such level as is appropriate and adequate having regard to its obligations and liabilities under this Agreement and the aggregate Orders under this Agreement. Such insurance shall be for the minimum amount specified in the Contract Details and shall be maintained during the term of this Agreement. Evidence of insurance should be provided by the Supplier to the Customer within three Business Days of request.

## The Supplier shall ensure that any Approved Subcontractors also maintain adequate insurance having regard to the obligations under this Agreement which they are contracted to fulfil.

# Compliance with relevant laws and policies

## In performing its obligations under this Agreement, the Supplier shall:

### comply with all applicable laws, statutes, regulations and codes from time to time in force; and

### comply with the Policies.

# The Customer may immediately terminate the Contract for any breach of clause 11 by the Supplier.

# Force majeure

## Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from circumstances beyond its 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; and

### collapse of buildings, fire, explosion or accident,

## (in each case a **Force Majeure Event**).

## The following shall not be considered to be Force Majeure Events (to the extent only that they affect the Supplier):

### any labour or trade dispute, strikes, industrial action or lockouts;

### docking or other off-loading restrictions imposed at ports (whether as a result of poor weather or otherwise);

### non-performance by suppliers or Approved Subcontractors;

### any increase in fuel, raw material or labour costs; or

### any interruption or failure of utility service.

## If a Force Majeure Event prevents, hinders or delays the ability of the Supplier to supply the Services, the parties shall negotiate in good faith to agree a way forward.

## A party affected by a Force Majeure Event (the **Affected Party**) will:

### promptly notify the other party in writing when the Force Majeure Event occurs and when it is brought to an end; and

### use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

## If the Force Majeure Event prevents the Affected Party's performance of its obligations for a continuous period of more than two weeks:

### either party may terminate the Agreement by giving written notice to that effect to the other party; and

### in any other event, the party not affected by the Force Majeure Event may terminate the Agreement immediately by giving written notice to that effect to the Affected Party.

# Intellectual Property

## All documents, plans, drawings and designs supplied to the Supplier by the Customer shall remain the property of the Customer or the relevant retailer. The Supplier shall keep them in safe custody, at its own risk and treat them as confidential and shall use them only for the purposes for which they were supplied and shall deliver them up to the Customer promptly upon request.

## All Intellectual Property Rights in anything that the Customer supplies to the Supplier shall belong to the Customer.

## The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of the Contract for the purpose of providing the Services to the Customer in accordance with the Contract.

## All Intellectual Property Rights in anything that the Supplier develops, on behalf of the Customer, a retailer or otherwise, specifically to meet the Supplier’s obligations under this Agreement will be the property of the Customer or as the Customer directs. If required, the Supplier agrees to transfer all intellectual Property Rights in full by way of an assignment in writing with full title guarantee to such person as the Customer directs which will apply from the date on which any relevant material or data is created.

# General

## **Assignment and other dealings.**

### The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement.

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

## **Confidentiality.**

### Each party undertakes that it shall not at any time disclose to any person any information obtained or received by the other party concerning the business, affairs, customers, clients, suppliers, dealings and pricing information of the other party except as permitted by clause 14.2.2.

### Each party may disclose the other party's confidential information:

#### to its employees, officers, representatives, agents, Approved Subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Agreement. Each party shall ensure that its employees, officers, representatives, agents, Approved Subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.2; and

#### as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

### No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.

## **Entire agreement.**

### This Agreement 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.

### 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 Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

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

## **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Agreement 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.

## **Severance.** If any provision or part-provision of the Agreement 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 Agreement.

## **Notices.**

### Any notice or other communication given to a party under or in connection with the Agreement shall be in writing and delivered by email, addressed to that party’s representative at the email address set out in the Contract Details or such other email address as that party may have specified to the other party in accordance with this clause and must request confirmation or acknowledgement of receipt.

### Any such notice or other communication shall be deemed to have been received one Business Day after transmission.

### The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## **Third party rights.** No one other than a party to this Agreement and their permitted assignees shall have any right to enforce any of its terms.

## **Governing law.** The Agreement, 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.

## **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 this Agreement or its subject matter or formation.

## **PART 3 – THE SCHEDULE**

## **Schedule 1**

## **The Services**

|  |  |  |
| --- | --- | --- |
| **Services Description (including performance dates and deliverables)** | **Specification** | **Price (£)** |
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