

Terms and Conditions

1. Definitions

Business Day means a day that is not a Saturday, Sunday or public holiday in Victoria, Australia;

Confirmed Purchase Order means a Purchase Order that has been accepted in writing by Frestine in accordance with clause 6;

Control means, in relation to an entity, the ability (whether directly or indirectly and whether by way of ownership of shares, contract or otherwise) to:

- (a) control the composition of the board of directors (or equivalent governing body) of that entity;
- (b) control more than 50% of the voting rights of that entity; or
- (c) control more than 50% of the issued share capital or other ownership interest of that entity;

Customer means the purchaser or intended purchaser of the Product (and includes any agent, contractor or representative of that purchaser). If the Customer is more than one person, the obligations upon the Customer in these Terms shall apply to all such persons jointly and severally;

Damaged has the meaning given in clause 7.4;

Delivery means the point in time and manner at which the Product is delivered to the Customer, as specified in the Particulars or the Purchase Order or otherwise agreed in writing. Delivery may occur:

- (a) when the Product is physically delivered to the delivery location nominated in the Particulars;
- (b) when the Product is collected by or on behalf of the Customer from Frestine's premises or another agreed location; or
- (c) where applicable, when the Product is transferred to the Customer at a mutually agreed transfer point, including a tanker or similar bulk transfer system;

Duty means any tax, import, charge or levy of an export, customs, excise, import or similar nature applicable to the exportation, importation, transportation, sale, use or ownership of any Product from time to time under any applicable law;

Force Majeure Event has the meaning given in clause 13.1;

Frestine means Frestine Dairy Australia Pty Limited (ABN 40 641 142 485) and such other of its related companies from whom you receive Product and their officers, employees, agents, contractors and advisers;

Guarantee means the personal guarantee in the form set out in Schedule 2 of the Particulars;

Interest Rate means:

- (a) the interest rate specified in the Particulars; or
- (b) if not specified in the Particulars, 12%;

Notice has the meaning given in clause 16.1;

PMSI has the meaning given in clause 8.4;

Product mean any goods or products supplied to the Customer by Frestine;

Purchase Order means a written order for Product from the Customer that complies with Frestine's ordering procedures (as notified to the Customer from time to time);

Sales Tax means any tax or levy of a sales, value added or goods and services nature applicable to the sale and/or supply of any Product from time to time under any applicable law in accordance with these Terms;

Terminating Party has the meaning given in clause 14.1; and

Terms means these Terms and Conditions of Domestic Supply.

2. General

2.1 All sales of Product by Frestine to the Customer shall be subject to these Terms, the Particulars and the relevant Confirmed Purchase Order. Subject to clause 2.2, these Terms supersede and exclude all prior or subsequent discussions, representations, terms and/or conditions of trade, all written or oral agreements and any other terms and conditions which the Customer seeks to extend to the supply of Product. The Customer's placement of a Purchase Order with Frestine shall constitute its acceptance of these Terms.

2.2 If there is any inconsistency between these Terms and any provisions in the Particulars or a Confirmed Purchase Order, the provisions of

the Particulars or the relevant Confirmed Purchase Order (as the case may be) shall prevail to the extent of that inconsistency.

2.3 Frestine reserves the right to change these Terms at any time by notice to the Customer and the amended Terms shall apply to all orders for Product placed by the Customer after receipt of such notice.

2.4 Frestine's agents and representatives have no authority to make any oral representations, statements, warranties, conditions or agreements that conflict with these Terms. Any such unauthorised representations, statements, warranties, conditions or agreements shall not bind Frestine nor shall they form a part of the agreement between Frestine and the Customer.

2.5 Where the Customer is a company, partnership or trust, then satisfactory guarantor(s) (as approved by Frestine) must execute the Guarantee set out in the Particulars before any credit can be approved. In the event that no personal guarantee is executed, then the persons signing the Particulars for or on behalf of the Customer shall be personally liable in the same terms as that set out in the Guarantee.

3. Price and Taxes

3.1 The price for the Product and currency of payment will be specified in the Particulars and be recorded in the Confirmed Purchase Order and the Customer will pay for the Product in the agreed currency and at the agreed times.

3.2 If for any reason an amount is paid to Frestine in a different currency from that specified in the Confirmed Purchase Order, and on conversion into the agreed currency (after deducting any costs or expenses incurred in accepting those funds or their conversion) Frestine realises an amount that is less than the amount due, the Customer must immediately pay such further amounts as are necessary to ensure that Frestine receives the full amount due in the agreed currency (including after taking account of any further conversion that is required).

3.3 Frestine reserves the right to change its prices at any time prior to the date of the Confirmed Purchase Order. Unless otherwise specified in the Particulars or Confirmed Purchase Order, prices are exclusive of GST, duties, freight insurance, and other applicable taxes, charges or fees.

3.4 The amount to be paid or other consideration to be provided to Frestine for any taxable supply it makes that is governed by or

otherwise connected with these Terms must be increased by an amount equal to any Sales Tax and Duty that Frestine is or will become liable to pay in respect of that supply so that Frestine retains after payment of Sales Tax and Duty the amount which it would have been entitled to receive but for its obligations to pay Sales Tax and Duty.

3.5 If the Product are intended for export from Australia and the sale qualifies as a GST-free export under the *A New Tax System (Product and Services Tax) Act 1999* (Cth), the Customer warrants that it does not intend to re-import the Product into Australia for any purpose other than making taxable or GST-free supplies.

4. Payment

4.1 Unless otherwise agreed in writing by Frestine, the Customer must pay for the Product in full and in advance of delivery, or in accordance with the payment terms specified in the Particulars or the Confirmed Purchase Order. Frestine is not obliged to deliver any Product unless payment terms have been met.

4.2 The payment terms specified in any Confirmed Purchase Order shall override Frestine's standard payment terms, but only in respect of that particular Confirmed Purchase Order.

4.3 All payments must be made in full, without deduction, set-off or counterclaim, in cleared funds to the bank account nominated by Frestine. If the Customer fails to make payment by the due date, Frestine may charge interest on the overdue amount at the Interest Rate, calculated daily and compounding monthly, as a genuine pre-estimate of Frestine's additional administrative and financing costs. The Customer's credit limit (if applicable) shall be adjusted by Frestine at any time and without further notification to the Customer if deemed necessary.

4.4 In the event that the Customer disputes a charge on an invoice, it shall notify Frestine within 10 Business Days of receipt of the invoice and furnish Frestine with all relevant information to enable Frestine to evaluate such claim. The Customer must pay the undisputed amount of the invoice on the due date. Once the dispute is resolved, the Customer must pay the resolved amount due within 10 Business Days. While an invoice remains disputed, Frestine is entitled to withhold or defer any future Delivery pending resolution.

4.5 If the Customer fails to make payment by the due date, Frestine may (in addition to any other

rights it may have at law or under these Terms):

- (a) suspend or cancel any outstanding orders or deliveries;
- (b) treat any unpaid amounts as immediately due and payable;
- (c) recover from the Customer any reasonable legal or debt recovery costs incurred in recovering unpaid amounts;
- (d) retain any prepayment or deposit as compensation for costs incurred in relation to the supply of the Product; and
- (e) repossess any Product in the Customer's possession for which title has not passed in accordance with clause 8.

4.6 If any invoice remains unpaid for more than 60 days after the due date, Frestine may request from the Customer recent financial information reasonably required to assess the Customer's ongoing creditworthiness. The Customer agrees to act reasonably in responding to such requests.

5. Freight and Transportation

5.1 Unless otherwise specified in the Particulars or the Confirmed Purchase Order, Frestine will arrange delivery of the Product to the Delivery Location set out in the Particulars or the Purchase Order, and the Customer will be responsible for the cost of freight, which may be invoiced separately or included in the price of the Product.

5.2 Frestine may choose the method of transportation in its discretion, having regard to the nature of the Product and delivery requirements. Frestine will use reasonable endeavours to deliver the Product on the agreed delivery dates, but time for delivery is not of the essence unless expressly agreed in writing.

5.3 If the Customer is responsible for collecting the Product, the Product must be collected from the location and within the time window specified by Frestine. If the Customer fails to collect the Product within that time, Frestine may charge storage fees or, after notice, dispose of the Product at the Customer's expense.

5.4 If delivery is delayed or impeded due to any act or omission of the Customer, including failure to provide access or receive the Product, Frestine may charge additional costs incurred

(including storage, redelivery or demurrage fees).

6. Purchase Order Confirmation

6.1 Frestine is not required to supply any Product to the Customer unless and until:

- (a) the Customer submits a written Purchase Order that constitutes an offer to purchase Product on the terms of these Terms and any applicable Particulars; and
- (b) Frestine accepts that Purchase Order in writing, thereby forming a Confirmed Purchased Order.

6.2 These Terms (and any quote or pricing provided by Frestine) do not constitute an offer to supply Product, and no contract arises until a Purchase Order is expressly accepted in writing by Frestine. Frestine has absolute discretion to accept or reject any Purchase Order.

6.3 Each Confirmed Purchase Order relates only to the specific order accepted by Frestine. Acceptance of one or more orders does not give rise to any ongoing obligation to supply further Product, and no ongoing relationship or supply commitment is to be implied from past dealings or prior confirmations.

6.4 Frestine may accept a Purchase Order in whole or in part and will notify the Customer of the estimated time, location, and method of delivery. Frestine will act reasonably in having regard to the Customer's delivery preferences, but retains discretion over the final delivery arrangements.

6.5 Once submitted, a Purchase Order may not be cancelled or varied by the Customer without the prior written consent of Frestine, even if the Purchase Order has not yet been accepted.

6.6 Frestine may cancel a Confirmed Purchase Order (in whole or in part) by notice to the Customer if:

- (a) the Customer breaches any of these Terms or the Confirmed Purchase Order;
- (b) the Customer delays a scheduled delivery and Frestine (acting reasonably) cannot accommodate the delay;
- (c) the Customer fails to pay any amount when due or threatens to delay payment; or

- (d) the Customer becomes insolvent, is subject to external administration, ceases trading or (in Frestine's reasonable opinion) is likely to be unable to meet its payment obligations.

Product will be deemed to have been accepted in full and in accordance with these Terms.

7. Delivery

7.1 Frestine will make reasonable efforts to deliver the Product in accordance with the delivery details advised under clause 6.4 or as otherwise agreed in writing. Any dates or timeframes given for delivery are estimates only and are not of the essence.

7.6 The burden of proving any alleged defect or delivery issue rests with the Customer. Frestine may require the Customer to provide samples, photographs or supporting evidence of any claim.

7.2 If delivery in accordance with clause 6.4 becomes commercially impractical (in Frestine's reasonable opinion), Frestine may deliver the Product:

7.7 Upon receiving a written notice from the Customer in accordance with clause 7.5, the parties will act in good faith to resolve the issue cooperatively.

- (a) to a reasonable alternative delivery location; or
- (b) using a reasonable alternative delivery method,

7.8 Where Product is delivered in instalments or multiple deliveries, each part delivery will be treated as a separate supply. The Customer must pay for each part as invoiced. Any defect or delay in one instalment does not entitle the Customer to cancel or refuse delivery of the remaining Product under the Confirmed Purchase Order.

in each case by providing notice to the Customer. Frestine is not liable for any loss or damage (including indirect or consequential loss, loss of profit, or economic loss) arising from any delay in delivery, failure to deliver, or change to the delivery method or location.

8. Risk and Title

7.3 If the Customer is unable or unwilling to accept delivery at the scheduled time, date, or location:

8.1 Risk in the Product passes to the Customer upon delivery to the Customer or the Customer's nominated agent or carrier, unless otherwise agreed in writing.

- (a) Frestine may charge the Customer for reasonable storage, handling, redelivery or associated costs; and/or
- (b) Frestine may, at its discretion, resell or dispose of the Product. If the resale price is less than the original price payable by the Customer, the Customer must pay the shortfall and any additional costs reasonably incurred by Frestine.

8.2 Title in all Product remains with Frestine and does not pass to the Customer until Frestine has received payment in full, in cleared funds, for all Product supplied to the Customer (whether under a Confirmed Purchase Order or otherwise) and for any other amounts owing to Frestine by the Customer.

7.4 If the Product is perishable and becomes damaged, spoiled, contaminated or otherwise unfit for use (**Damaged**) as a result of the Customer's failure or refusal to take delivery, the Customer indemnifies Frestine for all associated losses, including the cost of disposal and loss of sale.

8.3 Until title passes to the Customer under clause 8.2:

7.5 The Customer must inspect all Product upon delivery and notify Frestine in writing within ten (10) Business Days of delivery (or being entitled to access the Product) of any defect, damage, shortfall, or non-compliance with the Confirmed Purchase Order. If the Customer does not notify Frestine within this period, the

(a) the Customer holds the Product as bailee for Frestine and must store it separately and in a manner that clearly identifies it as Frestine's property;

(b) the Customer must not sell, lease, assign or otherwise deal with the Product other than in the ordinary course of its business (and as Frestine's fiduciary); and

(c) Frestine may at any time enter the Customer's premises (or any premises under the control of the Customer) to inspect, retrieve or take possession of the Product, without liability for trespass or damage.

8.4 The Customer grants to Frestine a security interest in the Product and any proceeds (including insurance proceeds) as security for all amounts owing now or in the future by the Customer to Frestine. This security interest

- constitutes a purchase money security interest (**PMSI**) under the PPSA.
- 8.5 The Customer consents to Frestine registering a financing statement on the Personal Property Securities Register and must do all things reasonably required by Frestine to enable it to perfect and maintain its security interest (including executing further documents, obtaining consents, and providing information).
- 8.6 To the extent permitted by law, the Customer waives its rights to receive any notices or statements under sections 95, 118, 121(4), 123, 130, 132(3)(d), 132(4) and 135 of the PPSA, and agrees that sections 142 and 143 of the PPSA do not apply to these Terms.
- 8.7 The Customer agrees not to register or permit any other security interest affecting the Product until title has passed to the Customer in accordance with clause 8.2.
- 8.8 In this clause, terms such as “security interest,” “purchase money security interest,” “financing statement,” and “proceeds” have the same meaning as given in the *Personal Property Securities Act 2009* (Cth).
- 8.9 If the Customer breaches these Terms or fails to pay any amount owing to Frestine when due, then without prejudice to any other rights Frestine may have (whether under contract, at law or in equity), Frestine may:
- (a) enforce the security interest granted under these Terms, including by taking possession of or seizing the Product in accordance with the PPSA;
 - (b) retain, dispose of, or sell the Product in its possession or control (whether by private or public sale), and apply the proceeds of sale to amounts owed by the Customer, including costs incurred in exercising enforcement rights;
 - (c) take possession of any other goods supplied by Frestine to the Customer, whether or not they are subject to a PMSI, where permitted by law; and
 - (d) appoint (and the Customer irrevocably authorises the appointment of) a receiver, receiver and manager, or agent to do anything Frestine could do under this clause, without needing the Customer’s consent.
- 8.10 The Customer agrees to indemnify Frestine for all reasonable enforcement and recovery costs incurred in connection with the exercise of its rights under this clause, including legal costs
- on a full indemnity basis, costs of repossession, storage, insurance, and resale.
- 8.11 If Frestine enforces its rights under this clause, it will take reasonable steps to obtain fair market value for any Product disposed of but is not liable to the Customer for any loss resulting from the manner or timing of sale, unless required by law.
- 8.12 Frestine may exercise its enforcement rights without notice to the Customer, except where notice is expressly required by the PPSA and has not been lawfully waived.
- 9. Liability**
- 9.1 Nothing in these Terms excludes, restricts or modifies any condition, warranty, right or remedy which the Customer may have under the *Competition and Consumer Act 2010* (Cth) or any other applicable law in Australia that cannot be excluded, restricted or modified by agreement.
- 9.2 Subject to clause 9.1, the Customer assumes full responsibility for any claims relating to the Product, except to the extent that the Product fails to conform to its agreed specification at the time of Delivery. The Customer must maintain appropriate insurance, including product liability insurance, for any risks for which it is responsible under these Terms.
- 9.3 The Customer must notify Frestine in writing within 30 days of Delivery of any claim that the Product does not conform to its specification at the time of Delivery. The affected Product must be kept separate and in the same condition as when Delivered, pending Frestine’s inspection. If Frestine accepts responsibility for the non-conforming Product, Frestine may, at its discretion, direct the Customer to either destroy the Product or return it to Frestine (or as otherwise directed by Frestine).
- 9.4 To the extent permitted by law, Frestine’s liability for breach of these Terms (including for any defective Product), negligence or any other cause is limited, at Frestine’s option, to:
- (a) the refund of the price paid for the affected Product (or a credit if unpaid); or
 - (b) the replacement or reprocessing of the affected Product, or payment for the cost of doing so.
- 9.5 The Customer’s exclusive remedies for any breach of these Terms or any loss or damage

arising in connection with the Product are those expressly set out in these Terms.

other rights or remedies Frestine may have under law or equity.

9.6 Frestine and the Customer must cooperate in the event of any recall or withdrawal of the Product, with the primary objective being to maintain public health and safety, and to protect each party's reputation and goodwill. Each party must provide reasonable assistance and comply with any applicable obligations imposed by a regulatory authority in respect of any Product recall.

9.7 To the extent permitted by law, Frestine will not be liable to the Customer or any other person for any consequential, special, incidental, punitive, indirect or economic loss or damage, or for any loss of profit, loss of opportunity, or loss of business, whether in contract, tort (including negligence), under statute or otherwise, arising from or in connection with the supply of the Product or these Terms.

9.8 Frestine is not liable for any failure or delay in performing its obligations under these Terms where such failure or delay is caused by an event beyond Frestine's reasonable control.

9.9 The Customer warrants that it will comply with all applicable laws, regulations and industry codes in relation to the storage, handling, processing, sale and use of the Product.

10. Indemnity

10.1 The Customer indemnifies and must keep Frestine indemnified from and against all claims, losses, damages, liabilities, costs and expenses (including legal costs on a full indemnity basis) arising out of or in connection with:

- (a) any breach by the Customer of these Terms;
- (b) any act or omission (negligent or otherwise) of the Customer or its employees, agents or contractors in relation to the use, storage, handling, processing, marketing or resale of the Product; and
- (c) any claim arising from Frestine's use of the Customer's trademarks, packaging, specifications, instructions or other materials provided by the Customer in connection with the production or supply of the Product.

10.2 The indemnity in clause 10.1 is a continuing obligation and is not affected by termination or expiry of these Terms. It is in addition to any

11. Intellectual Property and Confidential Information

11.1 Any confidential information or intellectual property provided by Frestine in connection with the Product, including these Terms and any Confirmed Purchase Orders, remains at all times Frestine's confidential and proprietary information and must be kept in strict confidence by the Customer. This intellectual property includes the use of Frestine's name, logo, branding, imagery, marketing materials, any product specifications, formulae, production methods, processes or processing techniques, know-how, discoveries or products (including in relation to the Product themselves) developed by or on behalf of Frestine.

11.2 The Customer must keep all such information confidential and must not, without Frestine's prior written consent:

- (a) disclose any of Frestine's confidential information to any third party (except as required by law); or
- (b) use any of Frestine's intellectual property or confidential information for any purpose other than strictly as necessary for the performance of its obligations under these Terms.

11.3 The Customer acknowledges that it has no rights or interest in Frestine's intellectual property and must not use, reproduce, modify, distribute, register or challenge the ownership or validity of any intellectual property belonging to Frestine.

11.4 Any use of Frestine's confidential information or intellectual property must be separately agreed in writing between the Customer and Frestine, and will be subject to such terms of use as may be specified by Frestine from time to time.

12. Governing Law And Disputes

12.1 These Terms, the Particulars and each Confirmed Purchase Order and any dispute, controversy or claim arising out of or in connection with them (including any non-contractual dispute or claim) are governed by the laws of the State of Victoria, Australia. The parties submit to the exclusive jurisdiction of the courts of Victoria and the Commonwealth of Australia.

12.2 Before commencing any legal proceedings (except for urgent injunctive or interlocutory relief), the parties must use reasonable efforts to resolve any dispute in good faith, including by referring the matter to senior representatives of each party for negotiation. If the dispute is not resolved within 14 days of referral, either party may commence legal proceedings.

13. Force Majeure

13.1 Neither party will be liable to the other for any delay or failure to perform its obligations under these Terms and/or any Confirmed Purchase Order where that delay or failure is caused by an event beyond the affected party's reasonable control (**Force Majeure Event**). A Force Majeure Event may include, but is not limited to:

- (a) natural disaster, war, fire, flood, explosion, theft of material items, epidemic disease causing quarantine, civil commotion, armed hostilities, terrorist act or imminent threat (as declared by the applicable government in the jurisdiction affected) or revolution;
- (b) industrial or trade dispute to the extent to which those things do not involve employees of the affected party; or
- (c) any loss or disruption to infrastructure, utilities or networks.

13.2 Where any Force Majeure Event continues for a period of 20 Business Days, then the unaffected party may terminate any Confirmed Purchase Order without liability.

14. Termination

14.1 Either party (**Terminating Party**) may terminate these Terms or the Particulars if the other party:

- (a) breaches these Terms or the Particulars and, where the breach is capable of remedy, such breach is not remedied within 14 days of the Terminating Party notifying the other party of the breach in writing;
- (b) breaches these Terms or the Particulars and such breach is not capable of remedy;
- (c) ceases to carry on business; ceases to be able to pay invoices as they fall due; has a receiver, a trustee and manager (or either of them) (including a statutory manager), a provisional liquidator, a

liquidator, an administrator or other like person appointed in respect of the whole or part of that party's assets, operations or business.

14.2 The parties acknowledge and agree that if these Terms or the Particulars are terminated:

- (a) by the Customer prior to the end of the Expiry Date (set out in the Particulars) for any reason other than those set out in clause 14.1 (including for commercial convenience); or
- (b) by Frestine prior to the end of the Expiry Date (set out in the Particulars) in reliance on clause 14.1,

then the Customer shall pay to Frestine an amount by way of liquidated damages, representing Frestine's reasonable estimate of the loss it will incur as a result of the early termination, including:

- (c) loss of opportunity to supply the Product at the pre-agreed price;
- (d) the cost of resourcing, testing, transportation and logistics already committed to the Customer; and
- (e) any costs or losses reasonably incurred by Frestine in redirecting or reselling the Product to another customer or market, including without limitation testing and transportation costs.

14.3 The amount in clause 14.2 will be determined by Frestine acting reasonably and in good faith having regard to the circumstances of the termination. The parties acknowledge and agree that this amount constitutes a genuine pre-estimate of Frestine's likely loss.

14.4 Nothing in this clause 14 shall limit Frestine's right to:

- (a) recover unpaid amounts for Products delivered; or
- (b) enforce any indemnity or other remedy available at law, statute, equity or otherwise.

15. Notification of corporate changes

15.1 The Customer shall promptly and in any event within five (5) Business Days notify Frestine in writing if any of the following events occur:

- (a) a change in the directors of the Customer;

- (b) a change in Control of the Customer, including a change in the shareholding or beneficial ownership of more than 50% of the issued voting shares or interests in the Customer, or in any entity that directly or indirectly Controls the Customer; or
- (c) any material change in the Customer's financial position that may reasonably be expected to affect its ability to perform its obligations under these Terms or the Particulars.

15.2 Upon receiving a notice under clause 15.1, the parties must, in good faith, discuss whether any variations to these Terms or the Particulars are reasonably required in light of the change, including (if relevant) adjustments to credit terms, security, or delivery arrangements.

15.3 Frestine must act reasonably in assessing the effect of any change notified under this clause 15 and shall not unreasonably withhold its agreement to continue supply, provided the Customer continues to meet its obligations.

16. Notice

16.1 A notice, demand, consent, approval or notification under this agreement (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid express post or email to the recipient's address for Notices specified in the Particulars, as varied by any Notice given by the recipient to the sender.

16.2 A Notice given in accordance with clause 16.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid express post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by email, when the sender's system registers that the email has passed the internet gateway of the sender's system (provided that no delivery failure is received by the sender within one hour of sending),

but if the event that would otherwise give rise to deemed receipt is not on a Business Day, the Notice is taken to be received at the start of Business Hours on the next Business Day.

17. Waiver

17.1 Any party's failure to exercise or enforce any right conferred on it under this agreement will not be deemed to be a waiver of that right or operate to bar the exercise or performance thereof at any time or times thereafter, nor will any party's waiver of any right under this agreement at any given time (including rights to any payment) be deemed a waiver for any other time.

18. Assignment

18.1 The Customer shall not assign or novate any or all of its rights or obligations under these Terms without Frestine's prior written consent (which may be given or withheld in Frestine's complete discretion).

18.2 Frestine shall have the right to assign or novate any or all of its rights or obligations under these Terms without the consent of the Customer.

19. Survival of obligations

19.1 Any indemnity or any obligation of confidence under these Terms (including the Particulars) are independent and survive termination of this these Terms. Any other term by its nature intended to survive termination of these Terms survives termination of these Terms.

20. Severability

20.1 If any term or provision of these Terms (including the Particulars) are held to be invalid or unenforceable, it is to be read down so as to be valid or enforceable or, if that reading down is not possible, severed and the remaining terms hereof will not be affected but will be valid and enforced to the fullest extent permitted by law.

21. Counterparts

21.1 These Terms (including the Particulars) may be executed in counterparts. All executed counterparts constitute one document.