

Terms & Conditions of Purchase

(for the Supply of Food / Non-Food Products Intended for Resale)

These are the Terms and Conditions on which Fresh Direct, a trading division of Sysco GB Limited, or any one or more of its Affiliates, may purchase products from its suppliers. All suppliers are requested to read these Terms and Conditions carefully and, by becoming a supplier to Fresh Direct of any food or non-food products intended for resale, the Supplier shall be deemed to agree to supply the products in accordance with these Terms and Conditions.

1 DEFINITIONS

In these Terms and Conditions the following definitions apply:

Affiliate	means, in relation to any party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.
Confidential Information	means any information disclosed by Fresh Direct to the Supplier as a result of an Order or otherwise in the course of its discussions with the Supplier, including but not limited to the existence of any contractual arrangements between the Supplier and Fresh Direct, the name of any customer(s) to whom Fresh Direct is reselling the Products, details regarding the specification, ingredients, recipes or pricing of the Products, the business, affairs, customers, clients, suppliers, plans, intentions, market opportunities, operations, processes, systems, designs, trade secrets or software of Fresh Direct, Sysco or its Affiliates, along with any information or analysis derived from Confidential Information and any other information that is marked as confidential or is reasonable to consider is of a confidential nature.
Data Protection Laws	means all applicable data protection laws, including, but not limited to, the Data Protection Act 2018 ('DPA 2018') and the UK GDPR (as defined in DPA 2018), as amended.
Fresh Direct	means Fresh Direct, a trading division of Sysco GB Limited (company number 02035315, registered address Enterprise House, Eureka Business Park, Ashford, Kent, TN25 4AG) and its Affiliates from time to time, all being subsidiaries of Sysco Corp (" Sysco "), including any of Fresh Direct's trading names, being Fresh Direct, Sysco, M&J Fresh Seafood, Fresh Kitchen, Roots and Wild Harvest.
Fresh Direct Own Brand Products	means all products supplied to Fresh Direct (whether as ingredients or finished products) which will be sold by Fresh Direct under a trade mark or name belonging to or associated with Fresh Direct or Sysco (or their Affiliates)
Intellectual Property Rights	means any 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 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.
Nominated Products	means any Products that are not sourced by Fresh Direct, but, which at the request of a customer, Fresh Direct has agreed to source from the Supplier and distribute to the mutual customer of Fresh Direct and the Supplier.
Order	means an order for Products placed by Fresh Direct.
Product Contract	means the commercial terms summary document agreed between Fresh Direct and the Supplier setting out the pricing and any other agreed financial terms and the Product Specification for the Products (including but not limited to product type, quantity, packing configuration and delivery profile) that is agreed in writing by Fresh Direct and the Supplier (or, in the case of Nominated Products, agreed between the mutual Fresh Direct customer and the Supplier).
Product Specification	means the specification and ingredients, including full particulars of all allergens, of the Products detailed in the Product Contract and the Technical Requirements or otherwise agreed in writing with Fresh Direct or approved by Fresh Direct when listing the Product. For clarity, in the case of Nominated Products the Product Specification is agreed between the Supplier and the parties' mutual customer.
Products	means the materials, products, packaging and/or services (as appropriate) which are described in Fresh Direct's Order or otherwise supplied to Fresh Direct.
Supplier	means the person, firm or company to whom an Order is addressed.
Supplier Charter	means the most up to date version of Fresh Direct's supplier charter document, available on request.
Supplier Form	means the new supplier set up form that the Supplier must complete prior to trading with Fresh Direct, in order for Fresh Direct to set up an account for the Supplier.
Technical Requirements	means the technical requirements document relating to the Products and their manufacture, storage and distribution issued by Fresh Direct from time to time to the Supplier.
Terms and Conditions	means the Product Contract, the Supplier Form, the Technical Requirements document, these terms and conditions, the Supplier Charter and any technical or other documents referred to in any of the above. For the avoidance of doubt, if there is any conflict between these documents the documents will be interpreted in the above order of precedence.
Vendor Brand Products	all foodstuffs and beverages supplied to Fresh Direct which will be sold by Fresh Direct under a trademark or name belonging to the Supplier (or any third party)

2 BASIS OF SUPPLY

- 2.1 These Terms and Conditions shall apply to the purchase of Products by Fresh Direct from the Supplier. The Supplier's acknowledgement of the Order, commencement of work with regard to the Products, shipment or supply of the Products, whichever occurs first, shall be deemed

to be the Supplier's acceptance of the Order. These Terms and Conditions apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

- 2.2 The Supplier represents that it can supply the relevant Products to Fresh Direct in accordance with these Terms and Conditions and the Supplier will accept any and all Orders placed by Fresh Direct for the Products detailed in the Product Contract or for any other Products for which Fresh Direct has agreed a price with the Supplier.
- 2.3 The Supplier acknowledges that it is not being appointed as an exclusive provider of any of the Products or services and Fresh Direct may at any time perform any part of the services itself or procure the Products and/or services from a third party. By appointing the Supplier or placing any Order, Fresh Direct does not commit to purchasing any minimum volume of Products or services from the Supplier. Any volume targets that are referred to by Fresh Direct and/or the Supplier are intended to be indicative only. Any exceptions to this clause must be agreed in writing by a director of Fresh Direct.
- 2.4 Subject always to any contractual supply period agreed between Fresh Direct and the Supplier in the Product Contract, the Supplier must provide Fresh Direct with a minimum of 12 weeks' notice, should it wish to cease supply, for whatever reason, of any existing Products to Fresh Direct. For the avoidance of doubt, if the Supplier wishes to cease supply of any Products during any supply period agreed in the Product Contract, then Fresh Direct's agreement in writing will be required.

3 PRODUCT & SERVICE WARRANTIES

- 3.1 The Supplier warrants that the Products shall:
- (a) comply and conform with the Product Specification and any Technical Requirements, together with any other specifications, drawings, samples or other descriptions agreed between the Supplier and Fresh Direct;
 - (b) comply with all applicable laws, regulations, British standard specifications and codes of practice (including general trade or other recognised regulations or specifications) relating to the supply and sale of the Products;
 - (c) be of the agreed quality, free from defects in material or workmanship and not be rendered injurious to health;
 - (d) wrapped, packaged and labelled appropriately so as to prevent damage or deterioration in delivery or storage;
 - (e) be labelled and packaged so as to comply with all prevailing and future legislation likely to come into force during the shelf life of the Products;
 - (f) be fit for the purposes for which they have been purchased by Fresh Direct (and, where applicable, are likely to be purchased or used by a Fresh Direct customer);
 - (g) not infringe the Intellectual Property Rights of any third party;
 - (h) be free from any third party lien, claim, title or interest;
 - (i) be free from any genetically modified material (or material derived from crops that have been genetically modified, including additives and flavourings) except (in the case of Vendor Brand Products) where otherwise agreed in writing between Fresh Direct and the Supplier; and
 - (j) not have been subjected to any irradiation treatment (including any ingredients/raw materials used in the Products).

- 3.2 The Supplier shall ensure that it (including its subcontractors and its supply chain) will at all times: (i) comply with all applicable laws, statutes, regulations and industry codes from time to time in force (including, but not limited to, the Modern Slavery Act 2015, the Data Protection Legislation defined in Clause 21, and the Bribery Act 2010); (ii) establish and maintain appropriate business standards, procedures and controls to ensure compliance with all applicable legislation, environmental regulations, labour laws, and best practice in the Supplier's industry; (iii) align and comply with Fresh Direct's business policies and codes, as may be amended from time to time, which are available at www.freshdirect.co.uk and at www.sysco.com or on request (including Sysco's Supplier Code of Conduct, Fresh Direct's Ethical Trading Code of Conduct, Modern Slavery Policy and Anti-Corruption and Bribery Policy, and Fresh Direct's Corporate Social Responsibility priorities and initiatives). The Supplier warrants that it has carried out such checks as a leading, prudent supplier could reasonably be expected to carry out to comply with all the aforementioned legislation and regulations and that it is in all the circumstances reasonable for Fresh Direct to rely on those checks.

4 PRODUCT INFORMATION & PACKAGING

- 4.1 The Supplier shall provide Fresh Direct with any data relating to the Products which Fresh Direct reasonably requires, including product ingredients, nutritional information and data relating to allergens to enable formulation of a comprehensive Product Specification for the Products and otherwise to satisfy Fresh Direct that appropriate legislative or regulatory requirements are complied with, such information to be provided as reasonably required by Fresh Direct from time to time. The Supplier warrants and undertakes that all product information, including full particulars of all allergens, is and shall be kept full, accurate and complete in all respects.
- 4.2 In the case of Fresh Direct Own Brand Products or fresh produce Products:
- (a) no changes shall be made to the agreed Product Specification without the prior agreement of Fresh Direct's Technical Department and Procurement Manager; and
 - (b) the Supplier has and shall maintain membership with SEDEX (<https://www.sedex.com/>), unless otherwise agreed with Fresh Direct in writing.
- 4.3 In the case of Vendor Brand Products:
- (a) the Supplier shall register on Erudus (<https://erudus.com/>) (or such other product data platform as agreed in writing between the parties) and shall be responsible for inputting all Vendor Brand Product data onto the data platform and for any subscription charges;
 - (b) the Supplier shall provide Fresh Direct with reasonable advance notice (and, in any event a minimum of 8 weeks' notice) of any changes to the Product Specification. Notice to be provided in writing to Fresh Direct's Technical Department and Procurement Manager and include: (i) details of the changes being made to the Product Specification; (ii) the date upon which the changes will take effect; and (iii) details of any new product codes or product identifiers.
 - (c) the Supplier shall ensure that the Product Specification held on the data platform is accurate and always kept up to date. Where the Product Specification changes, the Supplier shall immediately update the data platform to ensure it accurately reflects the Products being delivered to Fresh Direct at any point in time.

- 4.4 Fresh Direct shall not be responsible for verifying the ingredients (including allergens) contained in any of the Products and the Supplier shall be responsible for any labelling errors made by it or its suppliers. The Supplier shall remain responsible for any failure by it to supply any such Products with correct product information and labelling.
- 4.5 In the event that in anticipation of Orders the Supplier has produced Products or packaging which bear Fresh Direct's labelling or any other reference to Fresh Direct, its products or services which Fresh Direct notifies the Supplier in writing are in excess of its requirements, the Supplier may dispose of such Products or packaging to third parties but only after it has removed Fresh Direct's labelling and any other reference to Fresh Direct, its products or services from such Products or packaging.

5 E-COMMERCE

- 5.1 The Supplier shall ensure that its systems are fully compatible with Fresh Direct's e-commerce systems and programmes from time to time.

6 SUPPLIER PREMISES

- 6.1 The Supplier's premises, equipment, machinery and other apparatus used in connection with the manufacture, storage and supply of Products will comply with the appropriate standards of cleanliness and hygiene.
- 6.2 All manufacturing premises of the Supplier supplying Fresh Direct with foodstuffs have attained: (i) 'B' or higher grade certification against the BRC Global Standard for food; and (ii) catering supplies and equipment, certification against the BRC Global Standard for consumer products unless otherwise agreed in writing between Fresh Direct and Supplier.
- 6.3 Fresh Direct reserves the right for its employees or representatives to visit the Supplier's premises to verify at source that the Products conform with the Terms and Conditions. The Supplier shall provide Fresh Direct with all facilities reasonably required for inspection and testing. Such inspection and testing shall not absolve the Supplier from liability or responsibility under the Terms and Conditions nor imply acceptance of any of the Products.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Supplier shall indemnify Fresh Direct from and against any and all liability, actions, proceedings, claims, costs, expenses, losses or damage incurred by Fresh Direct in relation to any actual or alleged infringement of any Intellectual Property Rights arising out of the sale or use of the Products provided always that the Supplier shall not be required to indemnify Fresh Direct against such infringements where the Products are supplied to the particular design or specification of Fresh Direct.
- 7.2 The use by the Supplier of any material in which the Intellectual Property Rights are vested in Fresh Direct shall be limited solely to performance of the Order in accordance with Fresh Direct's instructions.
- 7.3 Labels, packaging and any other materials bearing or subject to Fresh Direct's name, trade mark or other Intellectual Property shall, upon termination or cancellation of an Order, be at Fresh Direct's option either delivered up to Fresh Direct carriage paid or destroyed.
- 7.4 All data, specifications, recipes or other materials supplied by or paid for by Fresh Direct in connection with the supply of the Products (including the Intellectual Property Rights therein)

shall be and remain the property of Fresh Direct. The Supplier hereby waives any lien or other rights that it might otherwise have on or in respect of any of Fresh Direct's property.

- 7.5 Where Fresh Direct commissions the Supplier under or in connection with the Order to create any work, design, concept, data, invention, recipe, new product or improvement, ownership of such deliverables including all Intellectual Property Rights therein shall vest in Fresh Direct upon their creation and any right, title or interest which may be vested in the Supplier is hereby assigned to Fresh Direct with full title guarantee, with the intent that all such Intellectual Property Rights created shall be the sole and absolute property of Fresh Direct.
- 7.6 The Supplier shall on request give to Fresh Direct the originals and copies of all deliverables of whatsoever nature in its possession or under its control belonging to Fresh Direct pursuant to Clauses 7.4 and 7.5.

8 CONFIDENTIALITY

- 8.1 The Supplier undertakes that it shall not at any time disclose any Confidential Information to any third party whatsoever, provided that the Supplier may disclose the Confidential Information (i) to its employees who need to know such information for the purposes of carrying out its obligations to Fresh Direct, provided that such employees are made fully aware of the confidential nature of the information and the Supplier remains at all times responsible for its employees' compliance with this Clause 8; and (ii) as may be required by law, court order or any government or regulatory authority.
- 8.2 The Supplier will not directly or indirectly disclose it or use the Confidential Information for any purpose, other than to fulfil its obligations to Fresh Direct under the Order. For the avoidance of doubt, the Supplier shall not otherwise make use of the confidential information for its own commercial benefit, for example by approaching, soliciting the business of or entering into a supply agreement (whether directly or indirectly) with any customer of Fresh Direct whose details have been disclosed pursuant to the Order.
- 8.3 For the term of the Product Contract and six months thereafter, the Supplier shall not knowingly enter into any contract with a customer of Fresh Direct for the supply of the same or similar Products direct to that customer unless otherwise agreed in writing with Fresh Direct. For the avoidance of doubt, this restriction shall not apply to suppliers of Nominated Products.
- 8.4 The Supplier shall immediately return to Fresh Direct or destroy any Confidential Information upon the request of Fresh Direct.
- 8.5 The Supplier shall not use the name of Fresh Direct or any customer of Fresh Direct for advertisement or publicity of any type, whether written or oral, without the prior written consent of Fresh Direct.
- 8.6 The Supplier agrees that, in order to protect the Confidential Information of Fresh Direct, it will not without Fresh Direct's prior written consent, employ any senior member of Fresh Direct's personnel for six months from the date on which they leave Fresh Direct's employment.

9 PRICING

- 9.1 The Product price shall be as agreed in the Product Contract and shall not be subject to any increase or additional levy unless agreed in writing by Fresh Direct or, in the case of Nominated Products, as set out in Clause 12. Subject always to any fixed Product pricing

agreed in the Product Contract, any price increase proposed by the Supplier must be agreed by Fresh Direct 3 months in advance of the application of such increases and the Supplier must provide satisfactory justification in support of such increases. Where applicable, any increases sought should be timed to coincide with the issue by Fresh Direct of its own customer price lists.

- 9.2 The Supplier will use its best endeavours not to sell or offer to sell the Products to a comparable customer (meaning a customer that purchases the Products in substantially similar volumes as Fresh Direct) for less than the price agreed with Fresh Direct.
- 9.3 For the avoidance of doubt, the price agreed between Fresh Direct and the Supplier shall include all associated costs, including the cost of packaging, insurance, carriage of the Products, import taxes and any other trade duties or tariffs, unless otherwise agreed in writing between Fresh Direct and the Supplier.

10 INVOICING & PAYMENT

- 10.1 All invoices must be validated against delivery notes. Fresh Direct shall be under no obligation to accept or pay for any Products supplied other than in accordance with the Order and the Terms and Conditions. Invoices may not be issued prior to the date of delivery of the Products. All invoices must quote Fresh Direct's purchase Order number and the relevant Fresh Direct product code(s) and be sent to Fresh Direct at an address specified by Fresh Direct. A signed delivery note will be made available on request.
- 10.2 In the event of a disputed invoice, Fresh Direct may withhold payment of the full amount of the invoice pending agreement of the amount outstanding. Alternatively, Fresh Direct may raise and forward to the Supplier a detailed debit note for the difference and deduct such amount from the invoice. Fresh Direct may, at its discretion, charge an additional administration fee.
- 10.3 Unless otherwise previously agreed in writing, payment will be made by BACS. Subject to Clause 12 (Nominated Products), Fresh Direct shall pay for the Products weekly, no earlier than 42 days from end of month unless stated otherwise in the Product Contract or the Supplier Form of the individual Supplier.
- 10.4 Fresh Direct may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to Fresh Direct against any liability of Fresh Direct to the Supplier.
- 10.5 If the Supplier does not supply an invoice for Products delivered within 6 months of the date of delivery Fresh Direct shall not be obliged to make payment for the Products.
- 10.6 The Supplier shall ensure that Fresh Direct is correctly notified at all times of the correct amount of VAT for each Product. The Supplier shall be liable for all costs incurred by Fresh Direct as a result of the Supplier failing to notify Fresh Direct of the correct VAT status or changes thereof.

11 DELIVERY

- 11.1 Unless otherwise agreed the Supplier shall deliver the Products to such destination as Fresh Direct may direct. Each delivery shall be accompanied by a delivery note clearly marked with Fresh Direct's Order number, the description and number of units of the Products, the unit size and, if appropriate, the best before date of all Products, as well as such other relevant information or paperwork required by the Terms and Conditions or by any applicable legislation or regulations, or as otherwise requested by Fresh Direct.

- 11.2 The Supplier will deliver the Products to Fresh Direct on a “DDP” (Delivered Duty Paid) basis unless otherwise agreed in writing.
- 11.3 Time is of the essence for an Order. If the Products are not delivered at the date and time specified in the Order, the Terms and Conditions or otherwise agreed between Fresh Direct and the Supplier, Fresh Direct may, without liability and without prejudice to any other rights or remedies it may have: (a) terminate the Order by notice to the Supplier effective upon receipt in respect of Products not yet shipped or services not yet rendered; (b) buy substitute Products elsewhere and recover from the Supplier any additional expenditure reasonably incurred; and (c) where an out of stock situation is created for Fresh Direct due to the Supplier’s failure to deliver the agreed quantity at the agreed time, seek appropriate recompense from the Supplier which may be based on the value of each lost sale to Fresh Direct at Fresh Direct’s selling price. If the failure to deliver is to a manufacturing site, Fresh Direct may also recover from the Supplier costs in relation to lost production time, wastage of other raw materials and/or any other costs due to this failure.
- 11.4 The Products will be delivered to the destination directed by Fresh Direct at the risk of the Supplier who will maintain adequate insurance. Title and risk shall pass from the Supplier to Fresh Direct at the point where the Products have been unloaded, checked and accepted on Fresh Direct’s behalf at the designated delivery point.

12 NOMINATED PRODUCTS

- 12.1 The price and Product Specification of any Nominated Products will be agreed directly between the Supplier and the parties’ mutual customer. Any variation to the price of a Nominated Product, or any instruction to delist a Nominated Product, will only be accepted and actioned by Fresh Direct on written instruction from Fresh Direct’s customer, subject to a minimum 14 days’ written notice.
- 12.2 In the event that Fresh Direct is required to participate in any rebate process in connection with any special pricing arrangement agreed between the Supplier and the parties’ mutual customer, it may charge the Supplier an appropriate administration fee to cover its costs of doing so.
- 12.3 Fresh Direct will pay the Supplier for Nominated Products only after it has received full payment in cleared funds for the Nominated Products from its customer provided that payment will be made no sooner than 42 days after end of month of delivery (unless otherwise agreed in the Product Contract or Supplier Form).
- 12.4 Where the Fresh Direct customer has made only part payment of total amounts invoiced by Fresh Direct, monies received will be allocated first to the payment of Fresh Direct wholesale debt and then to Nominated Product stock ordered on the customer’s behalf.
- 12.5 For the avoidance of doubt, in no circumstance will Fresh Direct be liable to pay the Supplier of Nominated Products for such Nominated Products except as set out in Clause 12.4 above, including, but not limited to, where a deterioration of the customer’s financial situation or its insolvency leaves it unable pay its invoices in full to Fresh Direct and Fresh Direct is holding stock of Nominated Products. Where the customer has failed to order or pay for Nominated Product stock for any reason, the Supplier will be offered the opportunity to collect the Nominated Product stock from Fresh Direct, or alternatively will instruct Fresh Direct to dispose of such Nominated Products at the Supplier’s expense.

13 REJECTION

- 13.1 Without prejudice to any other rights it may have, if any of the Products or packaging is found to be defective or, in Fresh Direct's reasonable judgment, to not comply with the Order or the Terms and Conditions (including without limitation the warranties at Clause 3), Fresh Direct shall be entitled to reject those Products or any part of them irrespective of whether Fresh Direct had initially accepted them. The whole of any consignment may be rejected if a reasonable sample of the Products taken randomly from that consignment is found in Fresh Direct's reasonable judgment not to conform in every material respect with the aforementioned requirements.
- 13.2 Fresh Direct will be entitled to return rejected Products to the Supplier (and the Supplier shall bear all risks and expenses related to the return of rejected Products including without limitation freight, duties and insurance) or Fresh Direct may elect to store such Products at the Supplier's risk subject to a storage charge payable by the Supplier for the period until collection by the Supplier or destruction by Fresh Direct (and the costs of such destruction by Fresh Direct shall be borne by the Supplier). In any event, Fresh Direct shall be entitled to charge the Supplier for any costs incurred by Fresh Direct as a result of rejections of Products.
- 13.3 In the event that rejected Products are returned to the Supplier, the Supplier shall ensure that any Fresh Direct labelling and any other reference to Fresh Direct, its products or services is removed from such Products prior to their subsequent disposal to any third party or otherwise.
- 13.4 Any acceptance by Fresh Direct of Products which are in any way defective or which do not otherwise conform with the Terms and Conditions or any term implied by law shall be without prejudice to any rights or remedies which Fresh Direct may have against the Supplier.
- 13.5 Except in the case of Nominated Products, where Products are rejected by Fresh Direct pursuant to this clause, then (at Fresh Direct's sole discretion) Fresh Direct may require the Supplier to immediately replace the rejected Products or Fresh Direct may recover from the Supplier any costs it incurs in obtaining substitute Products from a third party. For the avoidance of doubt, the Terms and Conditions shall apply to any replacement Products supplied.

14 TERMINATION

- 14.1 Without prejudice to any of its other rights or remedies and without incurring any liability, Fresh Direct may terminate an Order or any part thereof in the event that the Supplier commits a material breach of its obligations contained in the Terms and Conditions or any form of insolvency proceedings are commenced in respect of the Supplier. Upon receipt of a notice of termination from Fresh Direct, the Supplier shall immediately stop and cause all of its suppliers and sub-contractors to stop all work under the Order or the part which has been terminated.

15 COMPLAINTS

- 15.1 Without prejudice to Clause 17 (Indemnity), where Products are found not to conform to the Terms and Conditions, any costs associated with complaints from customers relating to the Products which are dealt with by Fresh Direct will be reimbursed by the Supplier in addition to such standard handling charge as Fresh Direct may impose from time to time and all reasonable reimbursements or compensation to claimants provided to customers by Fresh

Direct. In the case of injury to customers or a serious complaint, the Supplier shall promptly provide Fresh Direct with all assistance reasonably required by Fresh Direct until the matter is resolved.

16 RECALLS/CLAIMS

- 16.1 The Supplier shall immediately inform Fresh Direct of any actual or suspected food safety or quality issue which may affect the Products, whether discovered before or after delivery. Without prejudice to Clause 17 (Indemnity) in the event of a withdrawal of any of the Products due to any food safety or quality issue, or a Product recall required by the Supplier or reasonably determined to be necessary by Fresh Direct, the Supplier shall be responsible to Fresh Direct for all costs, losses and expenses incurred by Fresh Direct including without limitation loss of profit on sales, administration, recall and disposal/return expenses and any other consequential costs which may be incurred.

17 INDEMNITY

- 17.1 The Supplier shall defend, indemnify and hold Fresh Direct and its Affiliates harmless against any and all demands, damages, claims, liabilities, losses, costs and expenses (including legal expenses) arising out of or resulting from:
- (a) any claim made against Fresh Direct by a third party for death, personal injury or damage to property arising out of or in connection with defects in Products or with their delivery to Fresh Direct;
 - (b) the breach, negligent performance or failure or delay in performance of the Terms and Conditions, or wilful misconduct by the Supplier, its employees, agents or subcontractors;
 - (c) any claim made by an employee or other representative of the Supplier for personal injury, death or damage to property arising out of any occurrence on premises operated by Fresh Direct or its Affiliates, except to the extent caused by the sole negligence of SGG or its Affiliates.

18 INSURANCE

- 18.1 The Supplier shall maintain in force with an insurance company of good repute, product liability and public liability insurance in the minimum sum of £10 million pounds each, or such other sum as may be agreed, in respect of any one incident and in the event that the Supplier fails to do so Fresh Direct may effect such insurance and charge the cost of the same together with an administrative charge of 5% to the Supplier.

19 ANTI-CORRUPTION AND BRIBERY

- 19.1 As a matter of corporate policy and as strictly prohibited under the Fresh Direct Ethical Trading Code of Conduct and the Sysco Supplier Code of Conduct, Fresh Direct expressly prohibits payments or offers of bribes and/or facilitation payments in connection with Fresh Direct's business operations by any supplier or agent engaged to provide products or services to Fresh Direct.
- 19.2 The Supplier undertakes and agrees that it and its Affiliates will comply with the above policies and with all applicable laws, rules and regulations relating to anti-corruption and anti-money laundering including, without limitation, the Bribery Act 2010.

- 19.3 The Supplier shall ensure that any person associated with the Supplier who is performing services or providing Products in connection with an Order does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this Clause 19. The Supplier shall be directly liable for any breach by such persons of this Clause 19.
- 19.4 The Supplier shall notify Fresh Direct promptly upon discovery of any instance where Supplier, its Affiliates or persons associated have failed to comply with any provisions of this Clause 19.

20 ANTI-FACILITATION OF TAX EVASION

- 20.1 The Supplier shall not engage in any activity, practice or conduct which would constitute either (i) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017, or (ii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.
- 20.2 The Supplier shall;
- (a) have and shall maintain in place at all times measures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier) and to ensure compliance with this Clause 20;
 - (b) promptly report to Fresh Direct any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of its obligations under the Terms and Conditions; and
 - (c) ensure that any person associated with the Supplier who is performing services in connection with any Order does so in compliance with obligations equivalent to those imposed on the Supplier in this Clause 20. The Supplier shall be directly liable to Fresh Direct for any breach by such persons of this Clause 20.

21 DATA PRIVACY & PROTECTION

- 21.1 The parties acknowledge that under these Terms and Conditions each party acts as an independent data controller. Neither party will act or is authorised to act as a processor for the other party. In the event of a party becoming a processor for the other, processing shall be subject to Data Protection Laws, and the parties shall promptly put in place written processor terms that comply with the Data Protection Laws.
- 21.2 For the purposes of these Terms and Conditions each party agrees to:
- a) comply with the Data Protection Laws in the performance of their obligations under these Terms and Conditions;
 - b) only transfer personal data cross-border in accordance with Data Protection Laws;
 - c) notify the other party of any actual or suspected personal data breach relating to these Terms and Conditions promptly (and in any event, within twenty-four (24) hours) of becoming aware;
 - d) notify the other promptly (and in any event within forty-eight (48) hours) of receipt of a data subject rights request;
 - e) provide reasonable assistance to the other party to comply with any data subject requests; and
 - f) take the appropriate technical and organisational security measures to ensure the security of personal data processing in accordance with Data Protection Laws.

- 21.3 The expressions "controller", "process", "processor", "processing", "data subject", "personal data" and "personal data breach" have the meanings given to them in the Data Protection Laws.

22 PLASTIC PACKAGING TAX

- 22.1 The Supplier shall comply with all of its liabilities with regard to the Plastic Packaging Tax under the Finance Act 2021.
- 22.2 With regard to the composition of plastic packaging in Products sold to Fresh Direct, the Supplier shall provide to Fresh Direct any information it reasonably requires from time to time and will promptly notify Fresh Direct of any changes.
- 22.3 The Supplier shall indemnify the Customer against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the Supplier as a result of any breach of this Clause 22 by the Supplier.

23 GENERAL

- 23.1 The Terms and Conditions (and any documents referred to in the Terms and Conditions) constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the parties, whether written or oral, relating to its subject matter.
- 23.2 The Supplier shall not assign or transfer its rights or obligations under the Terms and Conditions, or sub-contract the production or supply of any Products without the prior written consent of Fresh Direct.
- 23.3 Neither Fresh Direct's failure to insist on the performance of any of these Terms and Conditions, nor its failure to exercise any right or privilege, nor its waiver of any breach hereunder, shall be deemed to be a waiver of any of these Terms or Conditions.
- 23.4 Fresh Direct's signature of receipt, inspection, testing, payment for or use of the Products furnished under an Order shall not affect the Supplier's obligations under the warranties contained in these Terms and Conditions which shall survive Fresh Direct's inspection, testing, acceptance and/or use.
- 23.5 The rights and remedies provided by these Terms and Conditions are cumulative and are not exclusive of any rights or remedies provided by law.
- 23.6 The parties do not intend that these Terms and Conditions will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 23.7 If any provision or part-provision of these Terms and Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms and Conditions.
- 23.8 Fresh Direct reserves the right to amend these Terms and Conditions from time to time. A copy of the latest version is available on request.
- 23.9 These Terms and Conditions shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts over any claim or matter arising under or in connection with these Terms and Conditions.