

# SYMINGTON'S LIMITED

## TERMS AND CONDITIONS OF SALE

### 1. DEFINITION

In these terms and conditions of sale (referred to herein as the 'Terms') all references to the 'Seller' are to Symington's Limited, a company incorporated in England under company number 02528254 with its registered office at Unit 8, South Fork Industrial Estate, Dartmouth Way Garnet Road, Leeds, LS11 5JL and all references to 'Buyer' are to the person, firm or company by whom the order is given. 'Goods' shall mean all goods (or any part of any good) supplied by the Seller to the Buyer under these Terms.

### 2. GENERAL

Goods are supplied to the Buyer by the Seller subject to these Terms, which override any differing conditions whether oral, on the Buyer's order form or the Buyer's other documents unless otherwise expressly agreed by the Seller in writing. The contract between the Seller and the Buyer (the "Contract") shall be constituted by these Terms and the relevant goods confirmation.

### 3. QUOTATIONS

A quotation by the Seller does not constitute an offer and the Seller reserves the right to withdraw or revise the same at any time prior to the Seller's acceptance of the Buyer's order.

### 4. PRICES

Prices payable for the Goods shall be the Seller's price current at the time of dispatch of the Goods. The Prices payable are inclusive of (a) any packaging and (b) where the Seller arranges delivery of the Goods to the Buyer only, the cost of that delivery. At any time prior to acceptance of the Buyer's order the Seller shall have the right to make any amendments to its published prices including, without limitation, the withdrawal of any discount and/or the revision of any prices. Unless otherwise specified, VAT and any other tax or duty shall be added to the price and shall be payable by the Buyer to the Seller. The Seller may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to: (a) any factor that is beyond the Seller's control (including, without limitation) foreign exchange fluctuations, increases in taxes and duties, pandemic (including, without limitation, COVID-19 virus), increases in labour, materials and other manufacturing costs; (b) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered; or (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.

### 5. TERMS OF PAYMENT

(a) Payment shall be made in full by the Buyer to the Seller without any deduction or set off in accordance with these Terms.

(b) Payment of all sums due in respect of each order of Goods shall be made so that it is received by the Seller no later than thirty days from the date of issue of the Seller's invoice in respect of the Goods, unless stated otherwise on such invoice.

(c) On failure by the Buyer to settle the Seller's invoices in accordance with the terms of sub-clause (b) above of clause 5 of these Terms the Seller may charge the Buyer interest on overdue accounts, such interest to accrue daily at a rate of 4% above the base rate from time to time of the Bank of England, from the due date thereof until receipt by the Seller of the full amount whether before or after judgement.

### 6. DELIVERY

(a) Delivery dates mentioned in any quotation, acknowledgement of order, or elsewhere are given in good faith and the Seller shall use reasonable endeavours to meet them. However, the Seller shall not be under any liability to the buyer in respect of any failure to deliver on any particular date or dates. For the avoidance of doubt, time of delivery shall not be of the essence. Delivery shall be completed when the Goods are collected by the Buyer in accordance with sub-clause (b) of clause 6 of these Terms.

(b) Where the Seller and the Buyer agree that the Goods will be collected by the Buyer, the Buyer shall collect the Goods from the Seller's premises at 1 Far Lane, Thornes Farm Business Park, Pontefract Ln, Leeds LS9 0DN or such other location as may be advised by the Seller prior to delivery, within [three] days of the Seller informing the Buyer that the Goods are ready. Where the Seller and the Buyer agree that the Goods will be delivered to the Buyer, the Seller shall deliver those Goods to the location specified in the Contract. The Seller shall ensure that each delivery of Goods shall be accompanied by a delivery note that shows the order number, the order date, the delivery location, the product SKU code, the product description, the batch and quantity information and the number of pallets and cases.

(c) If the Buyer refuses or fails to take delivery of Goods tendered in accordance with these Terms the Seller shall be entitled to immediate payment in full for the Goods so tendered. The Seller shall be entitled to store at the risk of the Buyer any Goods of which the Buyer refuses or fails to take delivery and the Buyer shall in addition to the purchase price pay all costs of such storage and any additional costs incurred as a result of such refusal or failure.

### 7. PASSING OF PROPERTY AND RISK

(a) All Goods supplied by the Seller shall remain the property of the Seller unless and until the Seller has received payment in full for such Goods and for any incidentals in connection with the transaction for which the Seller is

entitled to payment and for any other goods delivered by the Seller to the Buyer until payment in full. The Buyer shall account to the Seller for the proceeds of the sale of the Goods or any other Goods or products in which the Goods are incorporated and until such sale shall store the Goods in such a way as to enable them to be identified as the property of the Seller. The Buyer shall maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery. Where Seller has agreed to arrange delivery of the Goods, the risk in the Goods shall pass to the Buyer at the point of delivery stated in the Contract. Where the Seller has not agreed to arrange delivery of the Goods, the risk in the Goods shall pass to the Buyer when they are available for delivery to the Buyer at the point of delivery stated in the Contract.

(b) The Seller reserves the right to repossess any Goods, including Goods incorporated in other products in respect of which payment is overdue and thereafter to resell the same and to remit the proceeds of such sale to the Buyer after deducting therefrom all amounts due to the Seller from the Buyer and for this purpose the Buyer hereby grants an irrevocable right and license to the Seller's servants and agents to enter upon all or any of its premises or the premises of any third party on which the Goods or other products are stored, with or without vehicles during normal business hours. This right shall continue to subsist notwithstanding the termination of these Terms for any reason and is without prejudice to any accrued rights of the Seller hereunder or otherwise.

### 8. NOTIFICATION OF FAILURE OF DELIVERY IN ACCORDANCE WITH ORDER

The Buyer shall notify the Seller and the carrier of any shortage in the quantity actually delivered, or of any damage to, or defect in the Goods, such notification shall be made by telephone as soon as practicable after delivery and in every case shall be confirmed in writing within 48 hours of delivery of the Goods. Claims for short delivery or damaged Goods should be noted on the driver's copy of the delivery note in all cases. Such claims cannot be considered after 7 days of the date on which the invoice is issued in respect of the relevant Goods.

### 9. WARRANTY

The Seller warrants, subject to any special conditions agreed in writing by the Seller and Buyer, that all food (as defined by the Food Safety Act 1990 and/or and Regulations made thereunder) which is supplied by them from time to time complies at the date of delivery in all respects with the said Act and/or Regulations made thereunder and all other United Kingdom legislation and Regulations relating to the supply or sale of such food.

### 10. LIABILITY

(a) The Seller shall not be liable for defects in the Goods caused by any act, neglect or default of the Buyer, or of any third party unless notified to the Seller in writing, in accordance with the provisions of Clause 8 of these Terms. The Seller may at its option make good any shortage or non-delivery and/or as appropriate replace or repair any Goods found to be damaged or defective.

(b) The Seller's aggregate liability to the Buyer whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the sums received by the Seller from the Buyer in respect of the Goods which are the subject of the Contract.

(c) The following types of loss are wholly excluded: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and indirect or consequential loss.

(d) Subject to the foregoing, all conditions, warranties and representations expressed and implied by statute common law or otherwise in relation to the Goods and hereby excluded to the full extent permitted by law. Nothing in these Terms limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; or (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979.

### 11. PALLETS

Unless otherwise specified, all pallets remain the property of the Seller and are returnable to the Seller in the same state and condition in which they were delivered at the cost of the Buyer. The Seller reserves the right to charge the Buyer for pallets which have not been returned to the Seller, or which have been returned and are not, in the opinion of the Seller, in a fit state or condition for re-use by the Seller.

### 12. RECALL AND FOOD SAFETY

(a) In the event of a withdrawal or recall of any Goods or any Goods manufactured or supplied by the Seller save where a recall is solely caused by the Seller's act or omission (a 'Recall') or the actual or potential occurrence of any of the events listed in sub-clause (b) of clause 12 of these Terms (a 'Food Safety Incident'), the Buyer shall comply in all respects with any instructions provided by the Seller. In no circumstances shall the Buyer make any external communications (including to any third party bodies including the Food Standards Agency) in relation to any Recall or Food Safety Incident without the Seller's prior written consent.

(b) The Buyer shall notify the Seller immediately if the Buyer: (i) becomes aware that there is or may be a defect in the Goods including any possibility that there may be any microbiology or foreign body in any Good; or (ii) receives any complaint relating to the Goods, from customers or consumers of the Goods; or (iii) has any reason to believe or suspect that there is any likelihood of any other food safety related incident occurring in relation to the Goods or otherwise at any of the Buyer's premises, or that such an incident has occurred.

(c) If the Seller receives a notice from the Buyer pursuant to sub-clause (b) of clause 12 of these Terms: (i) the Seller and the Buyer shall meet to discuss what action should be taken in respect of the matters reported in the notice; and (ii) the Buyer will comply with the Seller's instructions at the Buyer's cost (which, for the avoidance of doubt, may include costs in connection with the investigation and rectification of the matter reported in the notice including the purchase of equipment and costs to comply with obligations imposed by third parties including additional testing of Goods and returning and destroying Goods in accordance with the Seller's instructions).

(d) Where a Food Safety Incident occurs, the Buyer shall take immediate action to discover and report to the Seller: (i) the identity, location and quantity of the Goods and ingredients involved; (ii) the relevant Goods (including case or delivery identification); and (iii) any other matters which may be of assistance in tracing the Goods or identifying the cause of the event.

(e) The Seller and the Buyer shall promptly forward to the other any notices, complaints or comments that each receives from any customer, retailer or consumer (the 'Complaints').

(f) The Seller shall be responsible for dealing with any Complaints and shall not be obliged to provide any information or documentation to the Buyer in relation to such Complaints or their resolution. The Buyer shall provide such assistance as is requested by the Seller in order to allow the Seller to do so, as soon as reasonably practicable following any such request and at the Buyer's sole cost.

(g) To the extent lawfully permissible, the Buyer shall promptly notify and provide copies to the Seller of any communications, whether relating to Recalls or otherwise relating to the Goods, with any competent authority.

#### 13. INTERFERENCE WITH MARKINGS

The Buyer shall not alter, obscure, remove, conceal or otherwise interfere with any markings or other identification of its source or origin placed by the Seller on the Goods, or on their labelling or packaging.

#### 14. THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

If the Buyer uses or sells the Goods in such a manner as to infringe any rights of a third party, the Seller shall not be responsible for such infringement, nor for any alleged infringement, arising from the Buyer's action in relation to the Goods and the Buyer hereby indemnifies the Seller for and against all liability arising therefrom. The Buyer shall not make any representations, warranties or guarantees with reference to Goods supplied by the Seller, except such as are consistent with these Terms.

#### 15. FORCE MAJEURE

If the supply of Goods by the Seller is prevented, hindered or delayed by reason of circumstances or events beyond the Seller's control, including but not limited to act of God, restrictions, restraint or interference by any Government or governmental or official body for any legislation rules or orders they may make, riot, strike, lock-out, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, epidemic, pandemic (including, without limitation, COVID-19 virus), severe weather conditions, difficulty or increased expense in obtaining workmen, materials or transport, or other circumstances affecting the supply of the Goods or of raw material therefore by the Seller's normal source of supply or the manufacture of the Goods by the Seller's normal means or the delivery of the Goods by the Seller's normal route or means of delivery, the Seller shall be under no liability to the Buyer and shall have the right to cancel or suspend the whole or any part of the Seller's unfulfilled obligations and in the event of any such cancellation or suspension, to treat these Terms as having been modified accordingly by mutual consent.

#### 16. INSOLVENCY AND DEFAULT

If the Buyer becomes bankrupt or commits any act of bankruptcy, or if the Buyer goes or is put into liquidation otherwise than by voluntary liquidation for the purpose only of an amalgamation or reconstruction, or if the Buyer shall enter into any arrangement or composition with creditors, or if a Receiver Administrator or Administrative Receiver is appointed over the Buyer's assets or undertakings or any part thereof, or if the Buyer commits any breach of these Terms or any other contract between the Seller and Buyer, the Seller may at its option terminate these Terms and refuse to make any further delivery.

#### 17. AMENDED TERMS AND CONDITIONS

Any amendments to these Terms or the Contract shall be of no effect unless agreed in writing between the Seller and the Buyer.

#### 18. WAIVER

Failure by the Seller to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right, nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

#### 19. ASSIGNMENT AND OTHER DEALINGS

The Seller may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under these Terms. The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Terms without the prior written consent of the Seller.

#### 20. CONFIDENTIALITY

(a) Each of the Seller and the Buyer undertakes that it shall not at any time during the duration of these Terms and for a period of two years after termination of these Terms, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by sub-clause (b) of clause 20 of these Terms.

(b) Each of the Seller and the Buyer may disclose the other party's confidential information: (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under these Terms. Each party shall ensure that its employees, officers,

representatives or advisers to whom it discloses the other party's confidential information comply with the confidentiality obligations herein; and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Terms.

#### 21. ENTIRE AGREEMENT

The Contract constitutes the entire agreement between the Buyer and Seller in relation to the Goods and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. In the event of any dispute or inconsistency between the Terms or the goods confirmation, the provision of the Terms shall prevail.

#### 22. SEVERANCE

If any provision or part-provision of the Contract 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 the Contract.

#### 23. NOTICES

Any notice given by either the Buyer or the Seller under or in connection with these Terms shall be in writing and shall be delivered to the recipient by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

#### 24. THIRD PARTY RIGHTS

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

#### 25. GOVERNING LAW AND JURISDICTION

The Contract shall be governed and construed in accordance with the laws of England and the parties hereby agree to be subject to the exclusive jurisdiction of the English Courts.