

RB

STANDARD CONDITIONS OF PURCHASE

These Conditions apply to the purchase of Goods and Services by RB unless varied or excluded by written agreement signed by an authorised representative of RB. Any terms and conditions which may appear, or be referred to, on any purchase orders, invoices, forms or other documents or communications (whether printed or electronic) or internet site purporting to supersede or replace these Conditions shall not apply unless accepted in writing by RB. Warehouse staff and other agents acting for RB have no authority to agree additional terms or variations to these conditions on behalf of RB.

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following words have the following meanings:

"Affiliate" means any company or other legal entity which from time to time directly or indirectly Controls, is Controlled by or is under the common Control with Reckitt Benckiser Group Plc, where "Control" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct, or cause the direction, of the general management of the company or other legal entity.

"Applicable Law" means any applicable law or governmental regulation, statute, order, policy (including any requirement or notice of a regulatory body), compulsory guidance or industry code of practice, court order, ruling of tribunal, rule of court, directive, delegated or subordinate legislation and recognised international standards (including GMP) from time to time in force;

"Ariba On Demand System" means the cloud based web portal provided by Ariba, Inc. (www.ariba.com), which enables RB to place Orders for Goods and/or Services;

"Confidential Information" has the meaning given in Condition 16.5;

"Contract" means the contract between RB and You for the supply of Goods and/or Services incorporating these Conditions and an Order;

"Delivery Date" means the date for delivery as stated in the Order;

"Delivery Details" means the Delivery Date, the Delivery Time and the Delivery Location;

"Delivery Location" means the "Ship To" location identified in the Order and/or such other location or locations for delivery as stated in the Order;

"Delivery Time" means the time for delivery of Order as stated in the Order;

"Discloser" has the meaning given in Condition 16.5;

"Goods" means any goods agreed pursuant to these Conditions to be supplied by You to RB (including any part of parts of them), as set out in an Order;

"Intellectual Property" means any patent, copyright (including without limitation moral rights and software), database right, design right, registered design, trademark or service mark (registered and unregistered), domain name, know-how, utility model, unregistered design or other industrial or intellectual property right subsisting in any part of the world and, where relevant, any application for protection or proprietorship of any such right;

"Order" means the order placed by RB using the Ariba On Demand System (which will be communicated via the Ariba On Demand System if You are Ariba On Demand System enabled, or via email if You are not Ariba On Demand System enabled) to purchase Your Goods and/or Services pursuant to Condition 2.4, incorporating any subsequent changes made pursuant to Condition 2.6;

"Parties" means both You and RB (and **"Party"** shall mean either of the Parties as the context requires);

"Policies" has the meaning given in Condition 16.7;

"Product Recall" has the meaning given in Condition 11.2;

"RB" means the Affiliate in the RB Group that is named as the "Bill To" entity on the Order and is the company which places an Order for the purchase of Goods and/or Services in the United Kingdom pursuant to these Conditions;

"RB Group" means and includes Reckitt Benckiser Group plc and each Affiliate of Reckitt Benckiser Group Plc;

"RB Materials" means any equipment, tools, drawings, specifications, data, dies, gauges, models, moulds, work or other materials provided to You (or directly paid for) by or on behalf of RB or any RB Group company;

"Recipient" has the meaning given in Condition 16.5;
"Services" means any services agreed pursuant to these Conditions to be supplied by You to RB (including any part performance of such services) as set out in an Order;
"Work Product" has the meaning given in Condition 9.1;
"Working Day" means a day which is not a Saturday, Sunday or Bank or Public Holiday in England;
"You", "Your", "Yourself" means the person(s), firm or company from whom RB purchases Goods and/or Services in accordance with these Conditions.

1.2 Construction

In these Conditions, the following rules apply:

- a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- b) a reference to a party includes its successors or permitted assigns;
- c) a reference to a statute provision is a reference to such statute or statutory 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;
- d) 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; and
- e) reference to writing or written includes faxes and e-mails.

2. ORDERING

2.1 Basis of the Contract

These Conditions shall apply to all arrangements RB have with You for the purchase of Goods and/or Services unless varied or disapplied with RB written agreement signed by an authorised representative of RB. These Conditions, together with the Order, shall constitute the agreed Contract between the Parties for the purchase of Goods and/or Services by RB from You. These Conditions shall apply to the exclusion of all other terms and conditions expressed or implied (including any terms and conditions which You purport to apply under any quotation, invoice, web portal, specification or other document or notification or electronic data interchange or any form of communication whatsoever and whenever).

2.2 Variation of these Conditions

RB may vary these Conditions at any time. Such new Conditions shall apply to any Orders placed after those new Conditions are issued.

2.3 Effect of these Conditions

If RB agrees with You to incorporate documents, specifications, processes, manuals, pages of websites and other arrangements of contractual effect into the Contract then, if there is a conflict or ambiguity between these Conditions and those other contractual arrangements, these Conditions will prevail except where it is expressly agreed between the Parties that any or all of such other contractual arrangements should take precedence.

2.4 Offer and Acceptance

All Goods and/or Services listed on the Ariba On Demand System, in Your brochures and catalogues or otherwise offered to RB shall be deemed to be an offer by You to provide such Goods and/or Services to RB subject to these Conditions. Each Order placed by RB shall be

deemed acceptance of Your offer on the terms set out in these Conditions, and the Contract incorporating these Conditions and the Order shall be binding on both Parties with immediate effect.

2.5 RB Right to Cancel Order

RB may, following the placing of an Order, cancel an Order by written notice to You. If RB cancels an Order, the relevant Contract shall terminate and RB's liability to You shall be limited in accordance with Condition 14.3.

2.6 RB Right to Change Order

RB shall have the right to make changes to the Order (including changes to the quantity of Goods, Service requirements and the Delivery Details) at any time prior to delivery of the Goods and/or Services at its sole discretion upon written notice to You.

2.7 Discontinuation or Variation of any of Your Goods and/or Services

If You decide to discontinue, re-design or otherwise alter any Goods or Services, the Goods' or Services' product range, Goods' specification, coding, packing or configuration, You shall provide RB with as much notice as possible, and in any event such notice will be six weeks prior notice of the exit/new product/service development date.

3. DELIVERY

3.1 Delivery Times

Goods and/or Services shall be delivered to the Delivery Location on the Delivery Date and, where a Delivery Time is given, at the Delivery Time. Time for delivery of the Goods and/or Services shall be of the essence.

3.2 Your Delivery Assurances to RB

If You believe You will be unable to fulfil a Delivery Date or Delivery Time then You will give RB as much notice as possible and will seek to agree a new Delivery Date or Delivery Time with RB on a priority basis. In the event that a new Delivery Date or Delivery Time cannot be agreed between the Parties, this shall be considered a failure to deliver and Condition 3.4 will apply.

3.3 Forecasts

All quantities or forecasts of Goods and/or Services to be ordered are purely indicative and RB will have no liability if actual Orders placed with the You do not meet such quantities or forecasts. Any discrepancy between actual Orders and forecasts shall not be construed as an Order change and the remedies of Condition 2.6 will not be available to You.

3.4 Failure to Deliver

If the whole or any part of the Goods and/or Services are not delivered to the Delivery Location on the Delivery Date, plus or minus 30 minutes of any agreed Delivery Time, then, without prejudice to any other rights which RB may have, RB reserves the right to:

- a) terminate the Contract in whole or in part;
- b) refuse to accept any subsequent delivery of the Goods and/or provision of the Services which You attempt to make;
- c) recover from You any expenditure reasonably incurred by RB in obtaining the Goods and/or Services in substitution from another supplier; and

- d) claim damages for any additional costs, loss or expenses incurred by RB which are in any way attributable to Your failure to deliver the Goods and/or Services on the Delivery Date.

3.5 Your Unloading Capabilities

Where the Contract relates to the supply of any Goods, unless otherwise agreed in writing between the Parties, all Goods ordered shall be delivered, carriage paid, to the Delivery Location. You shall off-load the Goods as directed by RB and in accordance with the RB health and safety policy. You will provide at Your expense appropriately trained manual labourers to ensure safe unloading of the Goods.

3.6 Your Outer Packaging

All Goods shall be packed and shipped in accordance with instructions or specifications contained in the Order. In the absence of any such instructions, You shall comply with best commercial practices to ensure safe arrival at the Delivery Location. You shall pack all Goods properly and securely and so as to protect against damage and deterioration so that they reach their destination in an undamaged condition. If You require RB to return any packaging material and/or pallets this must be clearly stated on the applicable delivery note delivered to RB and any such packaging material and pallets will only be returned to You at Your sole cost and risk.

3.7 Delivery Note

Where the Contract relates to the supply of any Goods, You shall ensure that each delivery is accompanied by a delivery note which details: the Order number, date of Order, number of packages and contents, number of pallets and, in the case of part delivery, the outstanding balance remaining to be delivered.

3.8 Delivery by Instalments

Where the Contract relates to the supply of any Goods and RB agrees, at RB absolute discretion, in writing to accept delivery by instalments, the Contract will be construed as a single contract in respect of each instalment. Nevertheless, failure by You to deliver any one instalment shall entitle RB to treat the whole Contract as repudiated and the Customer shall be entitled to each of the remedies at Condition 3.4.

3.9 Inspection

Goods and/or Services purchased and to be purchased under this Contract are subject to RB inspection and acceptance. Signature on behalf of RB of a delivery note or other document presented for signature on delivery of the Goods is not evidence that the correct quantity or number of Goods have been delivered, or that the Services have been performed to an accepted standard, or that the Goods and/or Services otherwise meet the requirements of the Contract. Payment for Goods shipped and/or Services performed shall not constitute acceptance. Goods and Services shall only be deemed accepted when they have actually been counted, inspected, and tested (as applicable) by RB and found to be in conformance with the Contract or, within a reasonable time after any latent defect in the Goods has become apparent.

3.10 RB Right to Reject

Goods rejected may, in addition to RB other rights, be returned to You at Your expense, including all expenses of unpacking, examining, repacking and reshipping. If RB receives Goods and/or Services with defects or nonconformities, whether or not apparent on inspection, RB reserves the right to require re-performance or a refund or replacement, as well as transportation costs and payment of damages. Nothing contained in this Contract shall relieve You from Your obligations of testing, inspection and quality control.

3.11 Delivery of Goods Not Requested in an Order

In the event that the Goods actually delivered do not correspond to those requested in the Order (such as delivery of incorrect Goods or additional Goods not requested in the Order), RB shall not be bound to pay for the additional or incorrect Goods and any additional or incorrect Goods will be and will remain at Your risk and will be returnable at Your expense.

3.12 Expiry Dates

Where the Contract relates to the supply of Goods and such Goods include an "Expiry Date", You warrant and represent that the amount of time remaining from delivery of the Goods until the end of the "Expiry Date" marked on the Goods will comply with all Applicable Law and will be sufficient to give RB a reasonable opportunity to use the Goods for any particular purpose expressly or impliedly made known to You by RB or for any reasonable purpose. You further warrant and represent that for the period up to and including the final day of expiry of the "Expiry Date" date as marked on the Goods, the Goods shall comply fully with the requirements of this Contract and with all Applicable Law relating to the manufacture and supply of such Goods as in force from time to time.

3.13 RB Packaging, Labelling and Trade Marks

Where the Contract relates to the supply of Goods:

- a) You shall comply with RB's reasonable instructions, including as to the marking of Goods, but in any event You shall be responsible for compliance with all Applicable Laws concerning the manufacture, marking/labelling, packaging, packing, carriage and delivery of the Goods (including those relating to hazardous Goods). You shall provide such evidence and confirmation of compliance and You will co-operate with and assist RB as is necessary or as RB requests to enable RB to comply with any such legal or regulatory obligations applicable to it;
- b) if any Goods are rejected or not purchased by RB which utilise RB name, trademarks, trade names, insignia, symbols, or decorative designs, You agree to remove the same prior to any sale, use or disposition thereof to a third party. You shall not have the right to use the name, trademarks, or trade names of RB, unless prior written approval has been obtained, and You acknowledge that all trademarks, service marks, and trade names of RB are the sole property of RB. You warrant that You will take no action which might derogate from RB rights in, or the goodwill associated with, such marks and names; and
- c) you shall ensure that all bar codes printed on the outer cases of Goods observe the EAN UCC specifications, as administered in the UK by the Association for Standards and Practices in Electronic Trade – EAN UK Limited.

3.14 Import and Customs

Where You source any Goods for a Contract from outside the United Kingdom, RB shall have the option of being the Importer of Record. In such case, You shall furnish RB with a commercial invoice containing the following information:

- a) port of entry;
- b) Your name and address and the name and address of the RB entity purchasing the merchandise;
- c) name of shipper (if different You);
- d) country of export;
- e) detailed description of merchandise in English;

- f) quantities and weights;
- g) actual purchase price, including all elements of the amount paid or payable by RB;
- h) the currency in which the sale was made;
- i) all charges, costs and expenses associated with the merchandise, including freight, insurance, commission, containerisation and packing, unless the cost of packing, containerisation and inland freight are already included in the invoice price;
- j) all rebates or discounts;
- k) the country of origin (manufacture) of the Goods; and
- l) all goods or services furnished for the production of the merchandise (e.g., "assists") not included in the invoice price for the first shipment of Goods unless RB directs otherwise in writing.

All Goods, unless specifically exempted, shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, with the country of manufacture of the Goods. You agree to comply with all Applicable Laws governing the importation of goods into the country designated by RB. You agree to hold harmless and indemnify RB, its directors, officers and employees against all losses, claims, penalties, judgments, liabilities and expenses which any of them may pay or incur arising out of any breach or non-compliance by you with this Condition 3.14, or from any other acts or omissions by you (or your representatives) in relation to the import or export of the Goods, including but not limited to all representations made by You with respect to documentation or other customs or governmental requirements with regard to entry requirements, classification, valuation, preferential treatment, duty drawback or trade terms.

4. PASSING OF RISK AND LEGAL TITLE FOR PURCHASE OF GOODS

The Goods shall remain at Your risk until delivery to RB is complete (including off-loading, stacking and checking and accepting) when risk and full legal and beneficial ownership of the Goods shall pass to RB with full title guarantee and without any encumbrances or charges. Further, title to all work, whether completed or in the course of construction and all materials on account of which payment has been made by RB, shall be vested in RB.

5. PRICE

5.1 The Price of Your Goods and/or Services

Unless otherwise agreed in writing by RB, the price for the Goods and/or Services shall be the price stated on the Order.

5.2 What the Price Includes and Excludes

Unless otherwise stated in the Order, the prices include all costs and charges in relation to packaging, labelling, commissions, import or export duties, storage, crating, express handling, travel, and delivery but shall be exclusive of any applicable sales tax (including value added tax (or replacement tax)) provided that a valid sales tax invoice is provided to RB. For the avoidance of doubt, sales tax applies to taxable orders only. Sales tax does not apply to tax-exempt orders (i.e. items purchased for resale or items exempt by Applicable Law).

5.3 Reductions in price available to RB

RB shall be entitled to any discount for prompt payment or volume of orders customarily granted by You to any other customer.

5.4 **Set-Off**

Without prejudice to any other right or remedy which RB may have at law or under the Contract, all claims for money due or to become due from RB shall be subject to deduction or set off by RB for any counterclaims arising out of the Contract or any other transaction with You.

6. **HOW AND WHEN YOU ARE PAID**

6.1 **Invoice Criteria**

The invoice must itemise Goods and/or Services by line item and transportation charges, including foreign inland freight and insurance and taxes separately, if applicable.

6.2 **RB Payment Obligations**

You shall invoice RB upon, but separately from, delivery of the Goods or completion of the Services. RB will pay You for the Goods and/or Services within 90 days of receipt by RB of a correct invoice which complies with the requirements of Condition 6.1 unless there is a discrepancy in accordance with Condition 6.4.

6.3 **Payment Mechanisms**

All payments shall be in UK pounds sterling unless otherwise agreed in the Order or in writing. BACS/CHAPS and credit transfers shall be made to the address notified by You to RB.

6.4 **Withholding in Respect of Discrepancies**

If in the opinion of RB, any invoice is incorrect or does not comply with Condition 6.1, RB shall notify You and payment shall not be due to You for the price set out in such invoice unless and until a correct invoice has been submitted to RB and then payment shall be due within 90 days of receipt of such corrected invoice.

6.5 **Receipts**

You will issue a receipt for all payments received by cheque or BACS/CHAPS/credit transfer.

6.6 **Treatment of Late Payments**

If any sum payable under this Contract is not paid when due, that sum will bear interest from the day after the due date until payment is made in full both before and after any judgment, at 2% per annum over the Bank of England's base rate from time to time. The Parties agree that this Condition is a substantial remedy for late payment of any sum payable under the Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998.

7. **WARRANTIES AND PERFORMANCE**

7.1 **Your Conformance with RB Requirements**

You expressly represent and warrant to provide all labour, materials, tools, equipment, personnel, supervision, and facilities necessary to provide the Goods and/or perform the Services described in the Order, in strict accordance with the terms of this Contract and any schedules, specifications, drawings, RB manuals, and other documents specifically attached to or referenced in these Conditions or in the Order.

7.2 **Warranties for Your Goods**

You expressly warrant and represent that all Goods provided under the Contract shall be:

- a) compliant with any specification, documents, processes or manuals referred to in the Order relevant to the Goods;
- b) of the best available design;
- c) of the best quality, material and workmanship;
- d) conform to all Applicable Laws and any relevant industry standards;
- e) fit for any particular purpose expressly or impliedly made known to You by RB;
- f) wholly new;
- g) free from defects in material and workmanship; and
- h) free from any adulteration and not contain any foreign matter,

(and where the Goods have an "Expiry Date", the Goods shall remain so until at least the "Expiry Date").

7.3 Warranties for Your Services

You expressly warrant and represent that all Services provided under the Contract shall be:

- a) compliant with any specification, documents, processes or manuals referred to in the Order relevant to the Services;
- b) performed by qualified persons utilising, if applicable, RB components or components of equal quality;
- c) provided in co-operation with RB and shall comply with all instructions of RB and that the deliverables shall be fit for any purpose expressly or impliedly made known to You by RB;
- d) performed with the best care, skill and diligence in accordance with the best practice in Your industry;
- e) performed using the best quality goods, materials, standards and techniques, and You shall ensure that the deliverables, and all goods and materials supplied and used in the Services or transferred to RB, will be free from defects in workmanship, installation and design; and
- f) of the best quality, material and workmanship.

7.4 Compliance With Applicable Law

You warrant and represent that all Goods and Services supplied pursuant to the Contract will have been performed, produced and supplied in compliance with all Applicable Laws; and all applicable jurisdictions' rules and regulations concerning wages and working hours, safety and health, anti-discrimination and humane treatment of workers. You shall indemnify RB against any liability caused by any non-compliance with this provision.

7.5 Licences and Consents

You shall ensure, and You warrant and represent that, at all times, You have and maintain all the licences, permissions, authorisations, consents and permits that You need to carry out as Your obligations under the Contract in respect of the Goods and Services.

7.6 Services Performance

You warrant and represent that, in providing any Services, You shall:

- a) observe all health and safety rules and regulations and any other security requirements that apply at any of RB's premises; and
- b) not do or omit to do anything which may cause RB to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business and You acknowledge that RB may rely or act on the Services.

7.7 Additional Warranties Provided to RB

In addition to the warranties above, where You receive any warranties in respect of the Goods and/or Services (or any component or element thereof) from any Supplier or subcontractor, You shall extend all such warranties to RB.

7.8 Breach of Your Warranties

Breach of the warranties and representations set forth in this Condition 7, or any other Condition, shall entitle RB to:

- a) terminate the Contract and in whole or in part and cancel any other Orders with You;
- b) refuse to accept any subsequent delivery of the Goods and/or provision of the Services which You attempt to make;
- c) recover from You any expenditure reasonably incurred by RB in obtaining the Goods and/or Services in substitution from another supplier; and
- d) claim damages for any additional costs, loss or expenses incurred by RB which are in any way attributable to Your breach of your warranties.

You shall indemnify and hold RB harmless for all damages arising out of any breach of such warranties.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 Intellectual Property in Goods/Services

Any Intellectual Property created by You in the course of the performance of the Contract or otherwise in the manufacture of the Goods and/or delivery of the Services shall vest in RB. You hereby assign to RB, absolutely with full title guarantee all Your present and future right, title and interest in and to any such Intellectual Property.

8.2 RB Intellectual Property

Nothing in this Contract shall be deemed to have given You a licence or any other right to use any Intellectual Property of RB or the RB Group. You shall not take any action which denigrates RB's or the RB Group's trade marks or in any way devalues the goodwill associated with RB and the RB Group (including without limitation, altering RB Group trade marks in any way or using on goods similar to the Goods any marks similar to those associated with the Goods).

8.3 Intellectual Property Warranty

In respect of the Goods and any goods that are transferred to RB as part of the Services under this Contract, You warrant that You have full clear and unencumbered title to all such

items, and that at the date of delivery of such items to RB, You will have full and unrestricted rights to sell and transfer all such items to RB.

8.4 Moral Rights

You shall obtain waivers of all moral rights in the products of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

8.5 Further Acts

You shall, promptly at RB's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as RB may from time to time require for the purpose of securing for RB the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property assigned to RB in accordance with Condition 8.1.

9. RB MATERIALS

9.1 Ownership and Safeguarding

All RB Materials shall be and remain the sole property of RB. Further, title to all work, whether completed or in the course of construction and to all materials on account of which any payment has been made by RB, shall be vested in RB ("**Work Product**"). You shall:

- a) safeguard all RB Materials and Work Product while it is in Your custody or control and be liable for any loss or damage thereto;
- b) at RB option, procure adequate insurance therefore;
- c) use it only for RB orders; and
- d) return it to RB upon request.

Any RB Materials and Work Product, whether furnished or ordered by RB, and which may be in an unfinished state, may be removed from Your premises or the premises of subcontractors upon request without further action or bond. In the event that RB removes RB Materials and Work Product that is not finished, RB will pay You a percentage of the Contract price that corresponds to the percentage of completion.

9.2 Liens

You represent and warrant that You shall keep all RB Materials and Work Product upon which You work free from all liens and/or charges during the performance of Services, and shall immediately notify RB of any and all liens, claims or other similar charges asserted by those furnishing labour, material, services or equipment in connection therewith, and shall promptly pay all undisputed claims and all undisputed portions of disputed claims. You agree to waive and hereby do waive any lien You may have in regard to such RB Materials and Work Product and ensure that subcontractors do the same. You authorise RB to withhold from any payments due to You hereunder amounts equal to the amounts of all outstanding claims. You shall present to RB releases and lien waivers from all such subcontractors, material suppliers and other claimants prior to final payment by RB. If any stop notices, liens, attachments or levies are filed in connection with the work or any portion thereof, then in addition to any amounts withheld hereunder, You authorise RB to withhold from any payments due to You, under this or any other contract, amounts equal to 125% of the amounts of such stop notices, liens, attachments or levies. RB shall have the right to pay any such funds withheld in order to satisfy, discharge and/or release claims or liens, and any such payments shall be deemed payments of such amounts to You.

10. YOUR INDEMNITY TO RB

You irrevocably and unconditionally agree to indemnify and keep indemnified RB, the RB Group companies and their respective employees, sub-contractors and agents (who shall have no duty to mitigate their loss) in full and on demand and keep them so indemnified against all claims, demands, actions, proceedings and all damages, losses, costs and expenses (including without limitation legal and other professional advisers fees and all consequential and economic loss (including without limitation loss of profit, future revenue, reputation or goodwill and anticipated savings)) whether direct or indirect made against or incurred or suffered by RB or any of them directly or indirectly, and whether wholly or in part resulting, from any third-party claim, demand, proceedings or action:

- a) arising out of or resulting in any way from any obvious or apparent defects or latent defects in the Goods and/or Services purchased under the Contract, or from any act or omission of You, Your agents, employees or subcontractors;
- b) based on a claim of alleged Intellectual Property right infringement, and/or for an alleged claim of unfair competition resulting from similarity in design, trademark or appearance of Goods or Services furnished under the Contract, unless and to the extent the Goods or Services are of RB design or formula;
- c) any Goods being the subject of a Public Recall;
- d) any claim made against RB in respect of any liability, loss, damage, death, injury, cost or expense sustained by RB employees or agents or by any customer or third party to the extent that such liability, loss, damage, death, injury, cost or expense was caused by, relates to or arises from the Goods and/or Services;
- e) the whole or any part of the Goods and/or Services failing to be delivered on the Delivery Date; and
- f) any loss or damage to property of RB to the extent that such loss or damage was caused by, relates to or arises from the Goods and/or the negligent performance or failure or delay in performance of the Services by You or Your employees, agents or sub-contractors.

In relation to Condition 10b) above, You agree that You will, upon request of RB and at Your own expense, defend or assist in the defence of any action which may be brought against RB, the RB Group companies and their respective agents, distributors, customers, or other vendors for such infringement or claimed infringement or alleged claim of unfair competition. RB agrees to notify You promptly upon receipt of notice of infringement or information of such a suit having been filed.

This indemnification shall be in addition to all other obligations under the Contract.

11. SAFETY FIRST

11.1 Your Notification

You shall immediately notify RB and confirm in writing (providing all relevant details) if You are aware that there may be or discover at any time that there is:

- a) any defect in any Goods which have been delivered to RB at any time;
- b) any error or omission in the instructions for the use and/or assembly of the Goods;
- c) any complaint, action, claim, suit or proceedings against arising out of or in connection with the Goods;
- d) any disease, infection or illness arising out of or in connection with the Goods (including the products or packaging which the Goods form part);

- e) any direction, order, notice or the like issued by a statutory or government body (in any jurisdiction) against You and/or persons associated with You and/or other persons who are performing services or providing goods in connection with the Contract (including any sub-contractors); and/or
- f) a risk that RB may suffer any incident that may damage its reputation (or that of any RB Group company or customer of any RB Group company) or that of any of its brands (or those of any RB Group company or customer of any RB Group company), whether or not any such defect, error, omission or incident represents a breach of the Contract, and whether or not any such defect, error, omission or incident has caused, is causing or may cause any risk of death, injury, damage to property or loss of reputation.

11.2 Product Recall

If You so notify RB in accordance with Condition 11.1, or RB otherwise discovers that an event given in Condition 11.1 has occurred or is likely to occur and RB reasonably concludes that the event has caused, is causing or may cause any risk of damage to RB, any RB Group company or RB customers' or any third party's property or reputation or any injury to any consumer, then, without prejudice to any other remedy RB may have, RB may in its absolute discretion and/or at its customers' request and in any event at Your sole cost issue any notification (in writing or otherwise) to its customers or to consumers (whether directly or indirectly via a government or regulatory body) about the manner of use or operation of any relevant Goods or any other products into which any such Goods have been incorporated ("**Public Recall**"). The decision to initiate (and scope of) a Public Recall shall be taken by RB in its absolute discretion.

11.3 Your Co-Operation

In the case of a Public Recall, You shall, and shall procure that persons associated with You or other persons who are performing services or providing goods in connection with the Contract (including any sub-contractors), cooperate with RB and provide all assistance to ensure that the Public Recall is promptly and effectively dealt with. You shall, and shall procure that persons associated with it or other persons who are performing services or providing goods in connection with the Contract (including any sub-contractors) shall:

- a) follow any directions received from RB;
- b) ensure that all batch records and product information relating to the Goods which are or which may be the subject of the Public Recall are retained and ensure that these records are immediately made available to RB;
- c) at the request of RB, cease delivering or otherwise distributing Goods to it;
- d) subject to Condition 11.3e), ensure that all of Your representatives and all representative of persons associated with You or other persons who are performing services or providing goods in connection with the Contract (including any sub-contractors) are aware of and prepared for applying the procedures set out in or referred to in this Condition 11;
- e) comply with all confidentiality obligations at all times;
- f) only supply Goods replacing the recalled or withdrawn Goods upon RB request in writing;
- g) participate in conference calls and/or meetings scheduled at the discretion of RB; and
- h) allow any authorised representative or agent of RB to enter Your premises (or the premises of any relevant subcontractor) at any time upon request for the purposes of
 - (i) inspecting the Goods, premises, plant, machinery, equipment, packaging or

produce in respect of food safety requirements and (ii) obtaining and retaining samples of raw materials, the packaging and the finished Goods.

11.4 Publicity and Enquiries

All press or other enquiries relating to any Public Recall shall be dealt with by RB and all enquiries You receive relating thereto shall be immediately referred to RB. RB shall be solely responsible for the publication of any notices or press releases associated with a Public Recall and for notifying, keeping apprised and liaising with any authority in relation to the Public Recall and agreeing with it/them appropriate further actions.

12. INSURANCE

During the term of the Contract and for a period of six years thereafter, You shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on RB's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

13. SUB-CONTRACTING, ASSIGNMENT AND THIRD PARTY RIGHTS

13.1 Assignment and Sub-Contracting

You are not entitled to assign, charge, subcontract or transfer the Contract or any part of it without RB prior written consent. No approval of assignment or subcontracting shall be granted by RB unless You include provisions in each assignment or subcontract that subjects the assignee or subcontractor to obligations identical to Your obligations under this Contract. RB written approval of such assignment or subcontract shall not affect the provisions of this Contract, and You shall not in any manner be released or discharged from Your obligations and liabilities, and shall remain liable for all acts and negligence of such assignees and subcontractor(s), and their officers, agents and employees as if they were Your employees. RB may assign, charge, subcontract or transfer the Contract or any part of it to any person.

13.2 Third Party Rights

Save where this Contract expressly reserves rights in respect of a Party's group companies, any person who is not a party to the Contract (including any employee, officer, representative or sub-contractor of either Party) shall have no right (whether under the Contracts (Rights of Third Parties) Act or otherwise) to enforce any provision or rights under the Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the Parties which agreement must refer to this Condition.

14. BREAKING OR TERMINATING THE CONTRACT

14.1 Mutual Termination Rights

Each Party may, as it thinks fit, (without prejudice to any other rights or remedies it may have against the other party) immediately terminate the Contract if:

- a) the other Party commits a material breach of any of its obligations under the Contract which is incapable of remedy;
- b) the other Party fails to remedy a breach of its obligations under the Contract which is capable of remedy, or persists in any breach of any of its obligations under the Contract after having been requested in writing by the first Party to remedy or desist from such breach within a period of 30 days;
- c) any distress execution or diligence is levied upon any of the other party's goods or property and is not paid out within seven days of it being levied;

- d) the other Party offers to make any arrangements with or for the benefit of its creditor or there is presented in relation to it a petition of bankruptcy;
- e) the other Party (being a limited company) is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the other Party calls a meeting for the purpose of passing a resolution to wind up its company, or such a resolution is passed or it presents or has presented a petition to wind up or present or have presented a petition to appoint an administrator or have an administrative receiver or receiver appointed to the whole or any part of its business, undertaking, property or assets;
- f) the other Party ceases, or threaten to cease, to carry on business; or
- g) a secured lender of the other Party takes any steps to obtain possession of the property on which it has security or otherwise to enforce its security;
- h) the other Party suffers or undergoes any procedure analogous to any of those specified in Conditions 14.1 c) to g) inclusive above or any other procedure available in the country in which it is constituted, established or domiciled against or to an insolvent debtor or available to the creditors of such a debtor;
- i) the other Party acts or omits to act in such a way as would in the first party's reasonable opinion bring the first Party into disrepute or otherwise damage the first party's reputation; or
- j) the first Party reasonably believes that any of the events specified in Condition 14.1a) to i) inclusive above is about to occur in relation to the other party.

In such event, the first party shall be entitled to damages (or at RB option, specific performance) incurred as a result of the other Party's breach or default.

14.2 RB Termination for Change of Control

Without prejudice to any right or remedy available to RB, RB may terminate the Contract with immediate effect if You undergo a change of Control and for the purposes of this Condition 14.2, "Control" has the meaning specified in Section 416 of the Income and Corporation Taxes Act 1998.

14.3 RB Termination for Convenience

Without prejudice to any right or remedy available to RB, RB may terminate the Contract (or any part of it) which has yet to be delivered to RB by notice in writing to You. Upon such termination, all affected work shall be discontinued and RB shall pay to You a reasonable termination charge based on a percentage of the Contract price reflecting the percentage of work performed by You prior to termination but such payment shall not include loss of anticipated profits or any consequential loss, or any costs or expenses incurred by You in investing in new equipment, personnel, premises, packaging or raw materials for the purposes (primary or ancillary) of fulfilling the Contract. Any claim for payment of such termination charges must be submitted in writing RB within 30 calendar days of receipt of written notice of termination. RB shall have the right to audit all elements of the termination claim, and You shall make available to RB on request all books, records and papers relating thereto.

14.4 RB Liability

The Contract is between you and RB. No other Affiliate in the RB Group of companies has any liability under the Contract.

14.5 RB Liability Limit

The total liability of RB for damages under or in relation to the Contract shall not exceed the price allocable to the Goods or Services giving rise to the claim.

14.6 Survival of Certain Provisions After Termination

Any termination of the Contract (for whatever reason) shall not affect the coming into force or the continuance in force of any provision of the Contract which is expressly or by implication intended to come into or continue in force on or after such termination.

15. LEGAL NOTICES

15.1 Formal Communication with RB

All notices between the Parties about any matter arising under this Contract must be in writing and delivered by hand or sent by pre-paid first class post or facsimile transmission:

- a) (in the case of notices to RB) to RB registered office marked for the attention of the General Manager or such other address as shall be notified by RB to You in accordance with this Condition 15; or
- b) (in the case of notices to You) to any address of Yours as set out in RB price and customer file or such other address as shall be notified to RB by You in writing.

15.2 Receiving Notices

Notices shall be deemed to have been received:

- a) if sent by pre-paid first class post, two Working Days after posting (exclusive of the day of posting);
- b) if delivered by hand, on the day of delivery or, if that is not a Working Day in the country of the recipient, the first Working Day after delivery; or
- c) if sent by facsimile transmission, at 10:00 am on the first Working Day following dispatch, subject to being able to show that the notice was sent to the correct telephone number.

16. GENERAL

16.1 Structure

Nothing in the Contract shall create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the Parties. Neither You nor Your employees shall be considered employees of RB or entitled to participate in any RB employee benefits or plans of any kind.

16.2 Waiver

The rights and remedies of either Party in respect of the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance, or extension of time granted by such Party to the other nor by any failure of, or delay by the said Party in ascertaining or exercising any such rights or remedies. The waiver by either Party of any breach of the Contract shall not prevent the subsequent enforcement of that breach and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

16.3 Severance

If at any time any provision of the Contract is held to be or becomes void or otherwise unenforceable for any reason under any Applicable Law, the same shall be deemed omitted

from this Contract and the validity and/or enforceability of the remaining provisions of this Contract shall not be in any way affected or impaired as a result of that omission.

16.4 **Amendments**

Any variation to this Contract shall have no effect unless expressly agreed in writing by one of RB authorised signatories.

16.5 **Confidentiality**

Each Party shall keep confidential all confidential or sensitive information of the other Party (the "**Discloser**"), including without limitation all written or oral information or information in electronic form which is designated as confidential by the Discloser or which by virtue of its character or the circumstances or manner of its disclosure is evidently of a confidential nature (which shall include, but not be limited to, documents, drawings, specifications data, toxicological data, graphics, letters and samples, electronically transmitted documents, and e-mails) ("**Confidential Information**") and shall not, without the prior written consent of the Discloser, disclose any Confidential Information to any third party and the Party receiving the Confidential Information (the "**Recipient**") shall only disclose such Confidential Information to those of the Recipient's employees (or those employees of its group companies), consultants, agents, sub-contractors or advisers who need to know such Confidential Information for the purposes of performing the Recipient's obligations under this Contract and who are bound by duties of confidentiality no less onerous than those contained in this Condition 16.5, which the Recipient agrees to enforce at its expense and the Discloser's request. Each party shall use the Discloser's Confidential Information solely for the performance of their obligations under this Contract. The provisions of this Condition 16.5 shall survive termination of the Contract.

16.6 **Publicity**

No press releases or other publicity regarding the Contract may be issued without RB prior written consent.

16.7 **Anti-Bribery**

You shall comply and ensure compliance of Your third party suppliers and/or sub-contractors and agents with the principles of the RB Code of Business Conduct and Anti-Bribery Policy as amended from time to time ("**Policies**"). You shall promptly report to RB any violation of the Policies. Breach of this Condition shall be deemed a material breach of the Contract. The Policies are available at <http://www.rb.com/our-responsibility/policies-and-reports>.

17. **LAW AND JURISDICTION**

This Contract and any dispute or claim arising out of or in connection therewith shall be governed by and be construed in all respects in accordance with English law.

Any dispute or claim arising out of or in connection with this Contract shall be subject to the exclusive jurisdiction of the English Courts, to which the Parties irrevocably submit.