

RB USA Standard Terms and Conditions of Purchase

These Conditions apply to the purchase of the Output by RB. No other or different terms or conditions shall apply, however or wherever they may appear. Any attempt by You to propose or impose other or different terms or conditions, by way of counter-offer or otherwise, is hereby rejected by RB and its Affiliates and Your subsequent delivery of the Output shall constitute acknowledgement and acceptance of these Conditions and no other or different terms or conditions.

RB shall have the right to make changes to the Order (including changes to the quantity, specification and the Delivery Date, Delivery Location and Delivery Time) at any time prior to delivery of the Output at its sole discretion upon written notice to You.

1. DEFINITIONS AND INTERPRETATION

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

"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;

"Contract" means these Conditions and the Order;

"Country" means the country in which RB is located.

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

"Delivery Location" means the location for delivery stated in the Order;

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

"Goods" means the goods to be supplied by You to RB (including any part or parts of them), as set out in the 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 issued by RB referring to these Conditions;

"Output" means the Goods and / or Services as is relevant;

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

"Person" means any individual, entity, partnership, limited partnership, limited liability partnership, firm, trust, body corporate, company, corporation, joint venture, government, governmental body, agency or instrumentality, unincorporated body of persons or association;

"Price" means the price of the Output;

"Public Recall" has the meaning given in Clause 10.2;

"RB" means the member of the Reckitt Benckiser Group Plc group of companies which has placed the Order;

"RB Affiliates" means any other member of the Reckitt Benckiser Group Plc group of companies from time to time;

"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 Affiliate;

"Services" means the services to be supplied by You to RB (including any part performance) as set out in the Order;

"Technical Agreement" means any technical or quality agreements signed by You (or Your Affiliate) and RB (or RB's Affiliates) specifying technical and quality responsibilities in respect of the Output entered into prior to the date of the Order.

"Working Day" means a day which is not a Saturday, Sunday or Bank or Public Holiday in the Country;

"You", "Your", "Yourself" means the Person(s) receiving the Order.

2. DELIVERY

2.1. **Delivery Times:** Output 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 Output shall be of the essence.

2.2. **Your Delivery Assurances to RB:** If You have any reason to 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 Clause 2.4 will apply.

2.3. **Forecasts:** All quantities or forecasts of RB requirements for the Output are purely indicative and RB will have no liability if the actual Order placed with You does not meet such quantities or forecasts. Any discrepancy between the actual Orders and forecasts shall not be construed as an Order change.

2.4. **Failure to Deliver:** If the whole or any part of the Output are not delivered to the Delivery Location on the Delivery Date at the Delivery Time (where given), 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 any subsequent delivery which You attempt to make;

- c) recover from You any expenditure reasonably incurred by RB in obtaining 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 Output on the Delivery Date to the Delivery Location at the Delivery Time, where given.
- 2.5. **Unloading:** Unless otherwise set out in the Order, all Goods ordered shall be delivered by You, carriage paid to the Delivery Location. You shall off-load 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.
- 2.6. **Your Outer Packaging:** All Goods shall be packed and shipped in accordance with instructions or specifications contained in the Order or as otherwise communicated by RB or an RB Affiliate. 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.
- 2.7. **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.
- 2.8. **Delivery by Instalments:** Where RB agrees, at RB's absolute discretion, 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 Clause 2.4 without prejudice to any and all other rights and remedies available to RB under the Contract, at law and in equity.
- 2.9. **Inspection:** The Output under this Contract is or 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 Output otherwise meet the requirements of the Contract. Payment for Output 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 to RB.
- 2.10. **RB Right to Reject:** Without prejudice to any and all other rights under the Contract, at law and in equity, RB shall have the right to reject or revoke acceptance of, pursuant to the terms of any legislative or contractual rights or otherwise, any Output which is defective or which does not comply with the provisions of the Contract. Output 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 Output 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, without prejudice to all other remedies available to RB under this Contract, at law or in equity. Nothing contained in this Contract shall relieve You from Your obligations of testing, inspection and quality control.
- 2.11. **Delivery of Output Not Requested in an Order:** In the event that Output actually delivered do or does not correspond to those requested in the Order (such as delivery of incorrect Goods or additional Goods or additional Services), RB shall not be bound to pay for the additional or incorrect Output and any additional or incorrect Output will be and will remain at Your risk and will be returnable at Your expense.
- 2.12. **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 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, 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.
- 2.13. **RB Packaging, Labelling and Trade Marks:**
- 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, import, supply, 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 Output are rejected or not purchased by RB which utilise RB name, trademarks, trade names, insignia, symbols, or decorative designs, You agree to remove and destroy at Your cost in accordance with RB's instructions 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 and strictly to the extent 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 relevant to the Country.
- 2.14. **Import and Customs:** Where You source any Goods for a Contract from outside the Country, RB shall have the option of being the Importer of Record. In such case, You shall furnish RB with a digital tax receipt issued in accordance with the Applicable Laws, or an invoice which shall fulfil the requirements of the Applicable Laws in Your incorporation and/or organization country, along with all the documentation that may be required by RB in order to carry out the importation of the Goods (e.g. certificate of origin).
- 2.15. 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 relating to the manufacture of the Goods and the import and supply of the Goods into or in (i) the country where the Goods are to be delivered under this Contract and (ii) any country to or in which RB has notified You that RB intends to import or supply the Goods. You agree to hold harmless and indemnify RB, its directors, officers and employees against all losses, claims, penalties, fines, judgments, liabilities and expenses which any of them may pay or incur arising out of any breach or non-compliance by you with this Clause 2.15, or from any other acts or omissions by you (or your representatives) in relation to the supply, 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. From time to time, RB may require You to furnish information and records relating to Your compliance with various laws and regulations. For this purpose, You shall retain records for a minimum of three (3) years after termination of the Contract or for as long as is required by Applicable Laws in any relevant jurisdiction, including (i) the country where the Goods are to be delivered under this Contract and (ii) any country to or in which RB has notified You that RB intends to import or supply the Goods.

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

- 3.1. The Goods shall remain at Your risk until delivery to RB is completed in accordance with the Contract, upon which 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 from the date of such payment.

4. PRICE

- 4.1. **Price:** The Price is the price stated in the Order.
- 4.2. **Price Includes and Excludes:** Unless otherwise stated in the Order, the Price include all costs and charges in relation to packaging, labelling, commissions, import or export duties, storage, crating, express handling, travel, and delivery but are exclusive of any applicable sales tax (including value added tax (or replacement tax)) provided that a valid sales tax invoice is provided to RB. 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).
- 4.3. **Set-Off:** Without prejudice to any other right or remedy RB may have under the Contract, at law or in equity, RB shall have the right to deduct from any monies due or becoming due to You under or arising from the Contract, any monies owed to or claimed by RB from You whether under or arising from the Contract or otherwise.

5. HOW AND WHEN YOU ARE PAID

- 5.1. **Invoice Criteria:** The invoice must itemise the Output by line item and transportation charges, including foreign inland freight and insurance and taxes separately, if applicable.
- 5.2. **RB Payment Obligations:** You shall invoice RB upon, but separately from, delivery of the Goods or completion of the Services. Subject to Clause 5.4, RB will pay You for the Output on or before the first Working Day after the end of the month in which falls the 120th day after receipt of a correct invoice which complies with the requirements of Clause 5.1.
- 5.3. **Payment Mechanisms:** All payments shall be in the currency of the Country unless otherwise agreed in the Order or in writing. You will issue a receipt for all payments received by cheque or BACS/CHAPS/credit transfer.
- 5.4. **Withholding in Respect of Discrepancies:** If in the opinion of RB, any invoice is incorrect or does not comply with Clause 5.1, RB shall inform You and payment shall not be due to You for the sum set out in such invoice unless and until a correct invoice has been submitted to RB and then payment shall be due on or before the first Working Day after the end of the month in which falls the ninetieth day from date of such corrected invoice.
- 5.5. **Late Payments:** If any sum payable under this Contract is not paid when due, that sum will bear interest per annum from the day after the due date until payment is made in full both before and after any judgment, at LIBOR Rate plus 4%. The Parties agree that this Clause is a substantial remedy for late payment of any sum payable under the Contract.
- 5.6. **Invoice in a timely manner:** If You do not issue an invoice to RB for any amount(s) owing under or in connection with this Contract within 12 (twelve) months of the date of the first right to invoice arising, You hereby waive Your right to demand, collect or enforce payment of any such amount(s).

6. WARRANTIES AND PERFORMANCE

- 6.1. **Your Conformance with RB Requirements:** You represent and warrant to provide all labour, materials, tools, equipment, personnel, supervision, and facilities necessary to provide the Output, in strict accordance with the terms of this Contract.
- 6.2. **Warranties for Your Goods:** You represent and warrant that all Goods shall be:
- a) compliant with any specification, documents, processes, manuals and Technical Agreements agreed between the Parties from time to time in association with the Goods;
 - b) of the best available design;
 - c) of the best quality, material and workmanship;
 - d) fit for any particular purpose expressly or impliedly made known to You by RB;
 - e) free from defects in material and workmanship; and
 - f) free from any adulteration and not contain any foreign matter.
- 6.3. **Warranties for Your Services:** You represent and warrant that all Services shall be:
- a) compliant with any specification, documents, processes, manuals and Technical Agreements agreed between the Parties from time to time in association with 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.
- 6.4. **Compliance With Applicable Law:** You warrant and represent that all Output supplied pursuant to the Contract will have been performed, produced and supplied in compliance with all Applicable Laws in respect of the countries of manufacture, of supply, and of intended use of the Output. You shall indemnify RB against any liability caused by any non-compliance with this provision.
- 6.5. **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 Your obligations under the Contract.
- 6.6. **Services Performance:** You represent and warrant 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. INTELLECTUAL PROPERTY RIGHTS

- 7.1. **Intellectual Property in Output:** Any Intellectual Property created by You in the performance of the Contract ("Arising Intellectual Property") shall, upon its creation, vest in RB. To the extent that RB requires a licence to Your Intellectual Property in order to make use of Arising Intellectual Property and the Output, you grant to RB an irrevocable, worldwide, transferable, sublicensable royalty-free right to use Your Intellectual Property for that purpose.
- 7.2. **RB Intellectual Property:** Nothing in this Contract shall be deemed to have given You a licence or any other right to use any of RB Intellectual Property save that RB grants You a revocable-at-will, non-exclusive, royalty-free, worldwide license to use RB and RB Affiliates' Intellectual Property Rights to the limited extent necessary to perform the Contract. You shall not take any action which denigrates RB trademarks or in any way devalues the goodwill associated with RB (including without limitation, altering RB trade marks in any way or using on goods similar to the Goods any marks similar to those associated with the Goods).
- 7.3. **Intellectual Property Warranty:** In respect of the Output, 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.
- 7.4. **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.
- 7.5. **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 that vests in RB in accordance with Clause 7.1.

8. RB MATERIALS

- 8.1. **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.
- 8.2. 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 Price that corresponds to the percentage of completion.
- 8.3. **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.

9. BREACH AND YOUR INDEMNITY TO RB

9.1. In addition to all other rights in the Contract and arising at law and in equity, breach of the warranties and representations set forth in Clause 6, or any other Condition, shall entitle RB, at its sole election, to:

- a) require You to take all reasonable steps to remedy the breach;
- b) terminate the Contract and in whole or in part and cancel any other Orders with You;
- c) refuse to accept any subsequent delivery of the Output which You attempt to make;
- d) recover from You any expenditure reasonably incurred by RB in obtaining the replacement goods and / or services in substitution for the Output from another supplier; and
- e) 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.

9.2. You irrevocably and unconditionally agree to indemnify and keep indemnified RB, RB Affiliates, and the employees, sub-contractors and agents of each (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, penalties, fines 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 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 Output, 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 in Output, unless and to the extent the claim or alleged claim are related to RB design or formula;
- c) any Public Recall or regulatory investigation;
- 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 Output;
- e) the whole or any part of the Output 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 Clause 9.2b) 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 or its agents, distributors, customers, or other vendors for such infringement or claimed infringement or alleged claim of unfair competition. RB agrees to inform You promptly upon receipt of notice of infringement or information of such a suit having been filed.

9.3. Your obligation to indemnify RB under this Clause 9 is in addition to all other rights and remedies available to RB under this Contract, at law and in equity.

10. SAFETY FIRST

10.1. **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, error or omission in any Output;
- b) any error or omission in the instructions for the use and/or handling of the Output;
- c) any complaint, action, claim, suit or proceedings against arising out of or in connection with the Goods;
- d) any disease, infection, illness or adverse health consequence or risk 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);
- f) a risk that RB may suffer any incident that may damage its reputation (or that of any RB Affiliate or customer of any RB Affiliate) or that of any of its brands (or those of any RB Affiliate or customer of any RB Affiliate) or place any such party at risk of being found to be in breach of an Applicable Law, 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; and/or
- g) a risk that you are or will be in breach of the Contract.

10.2. **Product Recall:** If You so notify RB in accordance with Clause 10.1, or RB otherwise discovers that an event given in Clause

10.1 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 Affiliate or RB or RB Affiliates' 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 under this Contract, at law or in equity, 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 Output or any other products into which any such Output have been incorporated ("**Public Recall**"). The decision to initiate (and scope of) a Public Recall shall be taken by RB in its absolute discretion.

10.3. **Your Co-Operation:** In the case of a Public Recall or a concern by RB that a Public Recall may be required, 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) if requested by RB, suspend all or any deliveries of the Output to RB or RB Affiliates and only supply Goods replacing any recalled or withdrawn Goods upon RB request in writing;
- d) 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 Clause 10;
- e) participate in conference calls and/or meetings scheduled at the discretion of RB (treating all information received from such calls and meetings, as well as the fact of the Public Recall, as Confidential Information of RB); and
- f) 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.

10.4. **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.

11. INSURANCE

11.1. 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, including liabilities related to product defects causing injury or property damage, failure to manufacture and supply the Output and failure to manufacture to the agreed specification, and You 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.

12. SUB-CONTRACTING, ASSIGNMENT AND THIRD PARTY RIGHTS

12.1. **Assignment and Sub-Contracting:** You are not entitled to assign, charge, subcontract or transfer the Contract or any part of it without RB's prior written consent, which consent may be arbitrarily withheld by RB. 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 without Your consent.

12.2. **Third Party Rights:** Save where this Contract expressly reserve rights in respect of RB Affiliates, 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.

13. BREAKING OR TERMINATING THE CONTRACT

13.1. **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 arising under the Contract, at law or in equity) 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;
- 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 13.1 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 Clause 13.1a) 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 incurred as a result of the other Party's breach or default (or at RB option, specific performance or specific performance and damages).

- 13.2. **RB Termination for Change of Control:** Without prejudice to any and all rights and remedies available to RB at law and in equity, RB may terminate the Contract with immediate effect if You undergo a Change of Control. For the purposes of this clause, "Change of Control" means the occurrence of a transaction or series of transactions (including a merger or amalgamation involving You and any other Person) whereby, after giving effect to such transaction or series of transactions, You are Controlled by a different Person or group of Persons (acting jointly or in concert) than before the occurrence of the transaction or series of transactions. "Control" means (including with correlative meaning the term "Controlled by") (i) the ownership of more than 50% of the voting shares of a corporation or partnership units of a partnership (including a limited partnership or limited liability partnership) and/or (ii) the power to direct or cause the direction of Your management and policies, whether through the ownership of shares or partnership units, by acting as the general partner of a limited partnership, by contract or otherwise. You shall, upon request of RB, make available to RB from time to time for inspection or copying or both, all reasonable data and records required by the Company to identify the Person or group of Persons who Control You.
- 13.3. **RB Termination for Convenience:** Without prejudice to any right or remedy available to RB under this Contract, at law or in equity, 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 promptly and RB shall pay to You a reasonable termination charge based on a percentage of the Price reflecting the percentage of work performed by You prior to termination but such payment shall not exceed the amount of any loss actually suffered by You and 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. If You do not submit such a claim within that time, You hereby waive Your right to demand, collect or enforce payment of any such amount(s). RB shall have the right to audit all elements of the claim for termination charges, and You shall make available to RB on request all books, records and papers relating thereto.
- 13.4. **RB Liability Limit:** The total liability of RB for damages under or in relation to the Contract shall not exceed the Price.
- 13.5. **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.

14. LEGAL NOTICES

- 14.1. **Formal Communication:** 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:
- 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 Clause 14; or
 - b) (in the case of notices to You) to any address of Yours as set out in the Order.
- 14.2. **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.

15. GENERAL

- 15.1. **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. Nothing in this Contract shall create an obligation on RB or any RB Affiliates to place further Orders or enter into further Contracts with You or Your Affiliates.
- 15.2. **Waiver:** No waiver of any provision of the Contract is binding unless it is in writing and signed by the Parties. 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. No waiver of any breach of any provision of the Contract will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

- 15.3. **Severance:** If 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.
- 15.4. **Discontinuation or Variation:** If You decide during the course of the Contract to re-design or otherwise alter your future supply of the Output, the Output's product range, future specification, coding, packing or configuration, You shall provide RB with as much notice as possible, and hereby irrevocably offer to RB the opportunity and will accept any order from RB or an RB Affiliate to purchase at a proportionate Price sufficient goods or services identical in respect of quality and specification to the Output which is the subject of this Contract as is required by RB to meet RB and RB Affiliates' needs for the subsequent eighteen months from completion of this Order.
- 15.5. **Amendments:** These Conditions can only be varied or amended if expressly agreed in writing and signed by one of RB's authorised signatories. Any other purported or attempted variation or amendment to these Conditions is of no force or effect.
- 15.6. **Confidentiality:** Each Party shall keep confidential all confidential or sensitive information of the other Party (the "Discloser"), including without limitation information in written, oral or 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 ("Confidential Information") 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 or in the case of RB taking the benefit of the Output and who are bound by duties of confidentiality no less onerous than those contained in this Clause 15.6, 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 or, in the case of RB, taking the benefit of the Output. The provisions of this Clause 15.6 shall survive termination or expiry of the Contract for a period of ten years from termination or expiry.
- 15.7. **Provision of information:** From time to time, RB may require You to furnish information relating to RB or RB Affiliates' compliance with various laws, licences and regulations, industry good practices, environmental health and safety regulations and other standards that may be applicable to the use of the Output. You shall in good faith extend full cooperation to all such requests.
- 15.8. **Data Protection:** You shall:
- a) process RB's personal data only to the extent, and in such a manner, as is necessary for fulfilling Your obligations under the Contract and in accordance with RB's instructions from time to time and shall not process personal data for any other purpose;
 - b) not transfer RB's personal data outside the European Economic Area without prior written consent;
 - c) take appropriate technical and organisational measures against the unauthorised or unlawful processing of RB's personal data and against the accidental loss or destruction of, or damage to, personal data to ensure RB's compliance with the seventh principle of the Data Protection Act 1998 (or equivalent legislation in force from time to time);
 - d) promptly inform RB if any of RB's personal data is lost or destroyed or becomes damaged, corrupted, or unusable; and
 - e) indemnify RB and hold RB harmless against any loss, damage, costs, fines or expenses, including legal fees and costs of litigation, arising from a breach of this Clause.
- 15.9. **Publicity:** No press releases or other publicity regarding the Contract or the Output may be issued without RB's prior written consent.

16. CORPORATE STANDARDS

- 16.1. For the purpose of this clause 16, "RB's Corporate Standards" means all policies and reports available at <http://www.rb.com/responsibility/policies-and-reports/> and associated laws and regulations, as may be amended from time to time, including but not limited to:
- a) RB's Code of Conduct;
 - b) RB's Anti-Bribery Policy and the UK Bribery Act 2010;
 - c) RB's Policy on Responsible Sourcing of Natural Raw Materials and supporting Standard for Responsible Sourcing of Natural Raw Materials;
 - d) RB's Policy on Human Rights and Responsible Business Policy and Detailed Requirements; and, where applicable,
 - e) Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals.
- 16.2. In performance of the Contract, You shall comply with RB's Corporate Standards. You shall maintain in place throughout the term of this Contract Your own policies and procedures to ensure compliance with RB's Corporate Standards and will appropriately enforce those policies and procedures. You shall ensure that any person associated with You who is performing activities in connection with this Contract are required to abide by terms equivalent to those agreed to by You in this clause.
- 16.3. You shall promptly report to RB any violation of this clause 16, or any request by any person that You perform an act that would be a violation of those requirements. You shall provide to RB, promptly and at no extra charge, information on and evidence of Your compliance with this clause 16 in the medium requested by RB.

16.4. Breach of this clause 16 shall be deemed a material breach of this Contract, allowing RB and RB Affiliates to terminate this and any other Contracts with You or Your Affiliates by immediate written notice without any liability from RB or RB's Affiliates to You or Your Affiliates.

17. LAW AND JURISDICTION

17.1. The Contract shall be governed by and construed in accordance with the laws of the state of Delaware, USA.

17.2. Any dispute or claim arising out of or in connection with the Contract (including any question regarding its subject matter, existence, validity or termination and including non-contractual disputes or claims), shall be referred to and finally resolved by arbitration under the rules of the London Court of International Arbitration (the "Rules"), which Rules are deemed to be incorporated by reference into this clause. The seat of arbitration shall be in London, UK. The number of arbitrators shall be 1. The language to be used in the arbitral proceedings shall be English and the law applicable to those proceedings shall be the governing law identified in clause 17.1.

17.3. Notwithstanding clause 17.2, RB may elect to initiate proceedings in a different jurisdiction (1) in respect of any claim arising from proceedings against You in a different jurisdiction or (2) for the purpose of interim, temporary or emergency relief, provided always in the event of (2) that final resolution of the relevant dispute or claim for which such relief is sought is in the forum identified in clause 17.2.