

**STANDARD TERMS AND CONDITIONS
FOR SUPPLY OF GOODS
OF
Pecan Deluxe Candy (Europe) Ltd**

1 DEFINITIONS

In this document the following words shall have the following meanings:

- 1.1 "Business Days" means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
- 1.2 "Contract" means a contract between the Supplier and the Customer for the sale and purchase of Goods in accordance with these Terms and Conditions;
- 1.3 "Customer" means the organisation or person who purchases Goods from the Supplier.
- 1.4 "Delivery Location" has the meaning given in clause 5.2;
- 1.5 "Force Majeure Event" has the meaning given in clause 14;
- 1.6 "Goods" means the goods (or any part of them) set out in the Order;
- 1.7 "Incoterms Rules" means the Incoterms 2020 Rules, published by the International Chamber of Commerce, as amended or superseded from time to time;
- 1.8 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trademarks, know-how, databases and all other forms of intellectual property wherever in the world enforceable;
- 1.9 "Order" means the Customer's order for the Goods, in acceptance of the Supplier's quotation;
- 1.10 "Specification" means any specification for the Goods, detailing (without limitation) the product ingredients and parameters and product code;
- 1.11 "Supplier" means Pecan Deluxe Candy (Europe) Ltd; and
- 1.12 "Terms and Conditions" means the terms and conditions set out in this document, as amended from time to time in accordance with clause 20.2.

2 GENERAL

- 2.1 These Terms and Conditions shall apply to each Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Terms and Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue.
- 2.4 Order shall only be deemed to be accepted when the Supplier issues a written confirmation of acceptance of the Order, at which point the Contract shall come into existence.
- 2.5 Before the supply of the Goods, the Supplier shall submit to the Customer a Specification. The Customer shall notify the Supplier immediately if the Customer does not agree with the contents of the Specification. Where the Goods are to be produced to the Customer's Specification, the Customer shall provide its Specification to the Supplier at the time of its request for a quotation for the supply of Goods.
- 2.6 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Terms and Conditions.
- 2.7 All Orders shall be subject to these Terms and Conditions.

3 PRICE AND PAYMENT

3.1 The price of the Goods shall be the price set out in the Order. The Supplier may invoice the Customer on or at any time after despatch of the Goods.

3.2 Invoiced amounts shall be due and payable in full within 30 days of the date of invoice. Payment shall be made to the bank account specified in the Order. Time for payment is of the essence.

3.3 If the Customer fails to make a payment when due to the Supplier under a Contract then, without limiting the Supplier's remedies under clause 12 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum in full, whether before or after judgment. Interest under this clause will accrue daily at 4% per annum above the Bank of England's base rate from time to time.

3.4 In the event that the Customer's procedures require that an invoice be submitted against a purchase order number, the Customer shall be responsible for issuing such purchase order number before the Goods are delivered.

3.5 The price of the Goods excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the then prevailing rate, subject to the receipt of a valid VAT invoice.

3.6 All prices quoted exclude the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

3.7 The Supplier may, by giving notice to the Customer at any time up to 10 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

3.7.1 any factor beyond the Supplier's control (including, but not limited to, foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

3.7.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

3.7.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

3.8 The Company reserves the right to repossess any Goods should the customer become insolvent or fail to pay for them under the terms of the Contract.

3.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

4 SPECIFICATION OF THE GOODS

4.1 The Goods are described in the Specification.

4.2 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

4.3 For the avoidance of doubt no description, specification or illustration shown on the Supplier's website or contained in any product pamphlet or other sales or marketing literature of the Supplier and no representation written or oral, correspondence or statement shall form part of the Contract or have any contractual force.

5 DELIVERY

5.1 The Supplier shall ensure that:

5.1.1 each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the

Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

5.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

5.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (the "**Delivery Location**") at any time after the Supplier notifies the Customer that the Goods are ready.

5.3 Delivery is completed on unloading of the Goods, or delivery of the Goods into the custody of the carrier named by the Customer (as applicable), at the Delivery Location.

5.4 The Order shall state the applicable form of delivery of the Goods. If the Order states that delivery is to be made in accordance with a specified mode of carriage set out in the Incoterms Rules then those rules shall apply to the delivery of the Goods, and in the event of a conflict between the applicable Incoterms Rules and these Terms and Conditions then the Incoterms Rules shall apply. 5.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.

5.6 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.7 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

5.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and

5.7.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

5.8 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, charge the Customer for any shortfall below the price of the Goods.

5.9 the Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6 TITLE AND RISK

6.1 Title in the Goods shall not pass to the Customer until the Supplier has been paid in full for the Goods, in which case title to the Goods shall pass at the time of payment of all such sums.

6.2 All risk in the Goods shall pass to the Customer upon completion of delivery.

7 CUSTOMER'S OBLIGATIONS

7.1 To enable the Supplier to perform its obligations under the Contract the Customer shall:

7.1.1 co-operate with the Supplier and not do anything that may reasonably prevent the Supplier from complying with its obligations under the Contract;

7.1.2 ensure that all information contained in any Specification provided by or on behalf of the Customer is accurate and complete in all material respects, complies with applicable laws and may not reasonably constitute a breach of any 3rd party Intellectual Property Rights;

7.1.3 provide the Supplier with any information reasonably required by the Supplier in connection with the Contract; and

7.1.4 comply with such other requirements as may be set out in the Order or Specification or otherwise agreed between the parties.

7.2 The Customer shall be liable to compensate the Supplier under clause 10.1 for any losses or expenses incurred by the Supplier as a result of the Customer's failure to comply with clause 7.1

7.3 The Supplier shall have no liability for any delay in the performance of the Contract arising out of or in connection with any act or omission of the Customer or any party that it is responsible for.

8 VARIATIONS TO THE SPECIFICATION AND ORDER

8.1 The parties may at any time prior to the completion of an Order mutually agree upon and execute a new Specification and/or Order. All variations to the Specification and/or Order, including (without limitation) changes to the Goods, the price and all other terms agreed between the parties, shall be set out in writing and signed by both parties.

8.2 Where the Supplier gives written notice to the Customer proposing any other amendments to the terms agreed between the parties, the Customer shall, within 5 Business Days of receipt of such notice, or such longer period as may be agreed between the parties, advise the Supplier by notice in writing whether or not it wishes the alterations to proceed. Where the Supplier confirms in writing that it accepts the Supplier's proposed amendments, the Specification and Order shall be deemed amended to reflect such alterations and thereafter the Supplier shall perform the Contract upon the basis of such amended terms.

9 QUALITY

9.1 The Supplier warrants that on delivery and for the duration of their specified shelf life the Goods shall:

9.1.1 conform in all material respects with their description and any applicable Specification;

9.1.2 be free from material defects in design, material and workmanship;

9.1.3 be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and

9.1.4 be fit for any purpose held out by the Supplier.

9.2 Subject to clause 9.1, if:

9.2.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 9.1;

9.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and

9.2.3 the Customer (if asked to by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

9.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 9.1 in any of the following events:

9.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 9.2;

9.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions, product specification, labelling and guidance as to the storage, handling, use and/or maintenance of the Goods or (if there are none) good trade practice regarding the same;

9.3.3 the defect arises as a result of the Supplier following any instructions or Specification supplied by the Customer;

9.3.4 the Customer alters such Goods without the written consent of the Supplier;

9.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

9.3.6 the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

9.4 Except as provided in this clause 9, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 9.1.

9.5 Except as expressly stated in these Terms and Conditions, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the goods to be provided by the Supplier. This exclusion does not exclude liability for fraud or fraudulent misrepresentation.

9.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

9.7 These Terms and Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

10 INDEMNITIES

10.1 The Customer shall indemnify the Supplier against all claims, costs and expenses which the Supplier may incur which arise directly or indirectly from the Customer's breach of any of its obligations under the Contract.

10.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by or on behalf of the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification.

10.3 This clause 10 shall survive termination of a Contract.

11 LIMITATION OF LIABILITY

11.1 Nothing in these Terms and Conditions shall limit or exclude the Supplier's liability for:

11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

11.1.2 fraud or fraudulent misrepresentation;

11.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

11.1.4 defective products under the Consumer Protection Act 1987; or

11.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

11.2 Subject to clause 11.1:

11.2.1 the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with a Contract. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss; and

11.2.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with a Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price payable for the Goods under the Contract.

11.3 Unless the Customer notices the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred or its having grounds to make a claim in respect of the event and

shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

11.4 This clause 11 shall survive termination of the Contract.

12 TERMINATION

12.1 Without limiting their other rights or remedies, either party may terminate a Contract forthwith by notice in writing to the other if:

12.1.1 the other party commits a material breach of any term of the Contract and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;

12.1.2 the other party commits a material breach of the Contract which cannot be remedied under any circumstances.

12.1.3 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

12.1.4 the other party suspends, threatens to suspend, ceases or threatens to carry on its business or substantially the whole of its business; or

12.1.5 the other party is declared insolvent, or convenes a meeting of or makes proposes to make any arrangement or composition with its creditors; or liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

12.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract for any reason by giving 30 days' written notice to the Customer.

12.3 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.

12.4 Termination of a Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract that existed at or before the date of termination.

12.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

13 INTELLECTUAL PROPERTY RIGHTS

All Intellectual Property Rights produced from or arising as a result of the performance of a Contract shall, so far as not already vested, become the absolute property of the Supplier, and the Customer shall do all that is reasonable necessary to ensure that such rights vest in the Supplier by the execution of appropriate instruments or the making of agreements with third parties.

14 FORCE MAJEURE

Neither party shall be liable for any delay in performing, or failure to perform, any of its obligations under a Contract if the delay or failure results from events, circumstances or causes beyond its reasonable control, including (without limitation): (a) acts of God, flood, drought, earthquake or other natural disaster; (b) disease, epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) collapse of buildings, fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause); (h) non-performance by suppliers or subcontractors, or delay or failure in

manufacture, production or supply by third parties of necessary equipment or services; and (i) interruption or failure of utility services (each a "**Force Majeure Event**"). If a party is affected by a Force Majeure Event, the affected party shall, on giving written notice to the other party setting out in reasonable detail the nature and extent of such event(s), be entitled to a reasonable extension of time for performing the affected Contract obligations . If the period of delay or non-performance continues for more than 3 months, the party not affected by the Force Majeure Event(s) may terminate the affected Contract by giving not less than 30 days' written notice of termination to the affected party.

15 ASSIGNMENT

15.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.2 The Customer shall not be entitled to assign transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations or delegate its duties under a Contract without the prior written consent of the Supplier.

16 SEVERABILITY

If any provision of a Contract is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if the Contract had been agreed with the invalid illegal or unenforceable provision eliminated.

17 WAIVER

The failure by either party to enforce at any time or for period any one or more of the terms of a Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms of the Contract.

18 NOTICES

Any notice to be given by either party to the other may be served by e-mail, fax, personal service or by post to the address of the other party given in the Specification or such other address as such party may from time to time have communicated to the other in writing, and if sent by e-mail shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

19 ENTIRE AGREEMENT

19.1 This Contract constitutes the entire agreement between the parties relating to the subject matter and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, arrangements, undertakings or proposals, oral or written.

19.2 Each party agrees that it shall have no remedy in respect of any statement, representation, assurance or warranty (howsoever made) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement so made.

20 NO THIRD PARTIES

Nothing in this Contract is intended to, nor shall it confer any rights on a third party.

21 GOVERNING LAW AND JURISDICTION

21.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales without exclusion.

21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.