



PURCHASE ORDER TERMS & CONDITIONS

1. BASIS OF CONTRACT

- 1.1 These terms and conditions (being the terms and conditions set out in this document as amended from time to time (**the Conditions**)), apply to the contract between **FRESH TRADING SUPPLY B.V.** company registered in the Netherlands with company number 73114944 with a registered office at Haarlemmerplein 48 B, 1013 HS, Amsterdam, Netherlands (**Customer**) and you (**Supplier**) for the purchase of goods (or any part of them) (**Goods**) or services () by Customer from the Supplier (**Contract**) as set out in the purchase order and/or any specification(s) provided to Supplier by Customer (**Order Services**).
- 1.2 These Conditions apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.3 The Order constitutes an offer by Customer to purchase the Goods or Services in accordance with these Conditions. The Order shall be deemed to be accepted on the earlier of the Supplier issuing a written acceptance of the Order or the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.
- 1.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

2. THE GOODS AND SERVICES

- 2.1 The Supplier shall ensure that the Goods shall:
 - (a) correspond with their description and any applicable specification agreed by Customer and the Supplier;
 - (b) be of satisfactory quality (within the meaning of Book 7 of the Dutch Civil Code), be fit for purpose and also fit for any purpose held out by the Supplier or made known to the Supplier by Customer expressly or by implication, and in this respect Customer relies on the Supplier's skill and judgement;
 - (c) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery; and
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 2.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents, and permits that it needs to carry out its obligations under the Contract.
- 2.3 Customer may inspect and test the Goods at any time before or at delivery. The Supplier shall remain fully responsible for the Goods during any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 2.4 If following such inspection or testing Customer considers that the Goods do not conform or are unlikely to comply with clause 2.1, Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 2.5 Where the Order relates to the supply of Services the Supplier shall ensure that the Services are provided to the best of its ability and are provided with such skill, care and expertise as an expert in the relevant field would be required to supply.

3. DELIVERY, TITLE AND RISK

- 3.1 The Supplier shall ensure that the Goods and Services are delivered in accordance with the Order and any specification provided by

Customer and each delivery of the Goods and/or Services is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable) and Services.

- 3.2 Delivery of the Goods shall be completed on the completion of unloading the Goods at the delivery location set out in the Order ("**Delivery Location**").
- 3.3 The provision of the Services shall be provided on the dates specified in the Order.
- 3.4 Title and risk in the Goods shall pass to Customer on completion of delivery at the Delivery Location.

4. PRICE AND PAYMENT

- 4.1 The price of the Goods and/or the Services shall be the price set out in the Order and shall include the costs of packaging, insurance and carriage of Goods.
- 4.2 No extra charges shall be effective unless agreed in writing with Customer.
- 4.3 VAT may be chargeable (if applicable) at the prevailing rate) on or at any time after the completion of delivery and subject to providing a valid VAT invoice and any supporting documents that Customer may reasonably require.
- 4.4 Customer shall pay correctly rendered invoices within 60 days or the last working day of the following month after receipt of the valid invoice (which ever is longer) and provided the Goods and Services are delivered in accordance with the terms of these Conditions and the Order.
- 4.5 Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to Customer against any liability of Customer to the Supplier.
- 4.6 Customer is entitled to withhold tax from all payments made to Supplier hereunder as may be required by applicable law.

5. CUSTOMER MATERIALS

- 5.1 The Supplier acknowledges and agrees that all materials, equipment, tools, drawings, specifications, Intellectual Property Rights (defined in 5.2 below) and data supplied by Customer to the Supplier ("**Customer Materials**") shall remain the exclusive property of Customer and its ultimate parent company Fresh Trading Limited. The Supplier shall keep the Customer Materials in safe custody at its own risk and maintain them in good condition until returned to Customer. Supplier shall not dispose of or use any Customer Materials other than in accordance with Customer's prior written instructions or authorisation.
- 5.2 All interest in and to all patents, copyrights, trademarks, trade secrets, trade dress and any other intellectual property, including, but not limited to any plans, ideas, materials, data, programs or information, including advertising and promotion ideas, concepts, slogans, marketing or media plans and studies, product test results or consumer demographic studies ("**Intellectual Property Rights**") arising from work undertaken by the Supplier in respect of the production of the Goods or the provision of Services for Customer shall belong to Customer or to such party as directed by Customer unless otherwise agreed in writing by Customer. The Supplier agrees at Customer's expense, to execute all documents and do all such other things as may reasonably be required to assign such Intellectual Property Rights as aforementioned. All copies of any material, designs and drawings and of any other relevant documentation prepared by the Supplier or any third party acting on Supplier's behalf for such purpose shall be provided to Customer on request.



6. INDEMNITY AND LIABILITY

6.1 The Supplier will defend, hold harmless and indemnify Customer, its parents, subsidiaries, customers, and their respective officers, directors, employees and agents and subcontractors against any and all claims, losses, damages, liabilities, actions, expenses or costs (including legal fees) which it incurs relating to or arising in connection with the Contract including but not limited to any (i) fraud, wilful misconduct or negligence of the Supplier, its parents, subsidiaries, customers, and their respective officers, directors, employees and agents and subcontractors in or in connection with the provision of Services and/or Goods provided; (ii) performance, or failure to perform, under the Contract; (iii) breach or default by the Supplier of its obligations, representations and/or warranties set forth in the Contract; (iv) the Supplier's alleged infringement of, or violation of, any third-party intellectual property right; or (v) bodily injury, sickness, death or damage to property caused by the acts or omissions of the Supplier, its employees, agents, representatives or contractors. Save in respect of liabilities which cannot be excluded or limited by law the Customer is not liable for (i) any loss of profit or revenue, nor (ii) any form of indirect, special or consequential loss. Customer's maximum liability under the Contract (whether in contract, tort (including negligence), breach of statutory duty, or otherwise) is limited to the price of the Goods and/or value of the Services as set out in the Order. This clause 6 shall survive termination of the Contract.

7. INSURANCE

The Supplier shall obtain and maintain in force adequate insurance satisfactory to Customer to cover the Supplier's obligations, including indemnification, under the Contract. The Supplier, upon request, will provide valid certification evidencing such insurance in a form acceptable to Customer. Such insurance will not be cancelled or amended without prior written consent from Customer. Compliance by the Supplier with this insurance provision will not relieve the Supplier of its obligations or liabilities.

8. CONFIDENTIALITY

8.1 A party ("**receiving party**") shall keep in strict confidence all non-public information and data relating to the parties and/or their direct or indirect parent companies, subsidiaries and/or associated and/or affiliated companies including without limitation technical or commercial know-how, commercial sensitive data, ideas, marketing plans and studies test results or consumer demographic studies, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

8.2 This clause 8 shall survive termination of the Contract.

9. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

9.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable laws, statutes, regulations and codes from time to time in force as well as the laws of the countries in which the Goods and deliverables of the Services are created, performed and delivered; and
 - (b) comply with the Customer's policies set out at 9.2 to 9.4 below (**Mandatory Policies**).
- 9.2 The Supplier shall and ensure that its employees and subcontractors comply with Customer's Human Rights Policy found at <https://www.innocentdrinks.co.uk/content/dam/innocent/gb/en/files/innocent-human-rights-policy.pdf>. Compliance can be against an alternative policy (i.e. supplier's human rights policy) as long as the alternative policy meets or exceeds the standards set out in Customer's Human Rights Policy. Compliance against the Human Rights Policy will be assessed by Customer using the audits and assessments used under the "**Supplier Guiding Principles**" as referred to in clause 9.3 below.
- 9.3 The Supplier shall, and shall ensure that its subcontractors, comply with The Customer's and Coca-Cola Company's (TCCC) Customer's supplier guiding principles (**SGP**) available at <https://www.coca-colacompany.com/policies-and-practices/supplier-guiding-principles>. TCCC and the Customer routinely utilises independent third parties to assess suppliers' compliance with the SGP. The assessments generally include confidential interviews with employees and on-site contract workers. If the Supplier fails to uphold any aspect of the SGP requirements, the Supplier is expected to implement corrective actions. Customer reserves the right to terminate the Contract if the Supplier cannot demonstrate it is upholding the SGP requirements.
- 9.4 The Supplier agrees to supply each of its employees and subcontractors performing services hereunder with a copy the code of business conduct (the Code), available at <https://www.coca-colacompany.com/policies-and-practices/supplier-code-of-business-conduct>. The Supplier will ensure compliance with said Code by all of its employees and subcontractors. Compliance with the Code includes, but is not limited to, complying with all local laws dealing with bribery of government officials.
- 9.5 The Supplier will comply with all applicable requirements of all data protection legislation and privacy legislation in force from time to time in the Netherlands including the General Data Protection Regulation ((EU) 2016/679), the Dutch "Algemene Verordening gegevensbescherming (AVG)" and/or any successor legislation and/or any other directly applicable European Union regulation relating to data protection and privacy ("Data Protection Legislation").
- 9.6 If, as part of the Services, and at any point during the term of the Contract, the Supplier will be providing access to or otherwise will be storing, handling, processing or transferring any personal information (as defined by the Data Protection Legislation), the Supplier must promptly alert Customer and comply with (and execute upon Customer's request) Customer's standard '*Data Processing and Transfer Agreement*', a copy of which will then be provided to the Supplier.
- 9.7 The Supplier will not, in connection with the supplying of the Goods or Services, or any other business transaction involving Customer, transfer anything of value, directly or indirectly, to any government official, or a family member thereof, in order to obtain any improper benefit or advantage. The supplier further warrants that no money paid to it will be used to pay any bribe, kickback, or facilitation payment. Customer must provide prior approval before the Supplier transfers anything of value to a government entity or official on



behalf of the Customer. Upon request, the Supplier will provide prompt certification of its continuing compliance with this provision. The Supplier will comply with applicable trade sanctions laws and regulations and will not engage in any business with specially designated nationals, blocked persons, denied parties and/or an embargoed country (**SDNS**) for or on behalf of the Customer, nor will the Supplier source any products or ingredients or services used in the supply of Goods or Services from any SDNS. The Supplier represents and warrants that it is not (and is not owned or controlled by or acting on behalf of) any SDNS.

9.8 The Supplier:

- (a) warrants that it has in place (and will maintain throughout the term of the Contract) policies and procedures appropriate to fulfil its responsibility to take reasonable steps to prevent it and any person acting in the capacity of a person associated with it (**associated person**) from facilitating the evasion of any tax;
- (b) warrants that, to the best of its knowledge (i) it has not been convicted of or investigated for any offence relating to tax evasion (including its facilitation), and (ii) there is no investigation or proceeding ongoing, pending or threatened in this respect, nor is there any circumstance that could reasonably result in any such investigation or proceeding;
- (c) undertakes to notify Customer promptly if it becomes aware of any investigation or proceeding referred to in (b);
- (d) undertakes that it shall not facilitate or attempt to facilitate tax evasion in performing the Contract;
- (e) shall, upon written request, certify in writing that warranties (a) and (b) continue to be accurate and provide supporting evidence of the continuing accuracy of those warranties, including copies of related policies.

9.9 Customer may immediately terminate ("*opzeggen*") the Contract for any breach of this clause 9, without the obligation to pay any costs or damages to the Supplier.

10. TERMINATION

The Contract may be terminated by Customer at any time: (i) upon 30 days prior written notice to the Supplier without cause (ii) in case of a breach of obligations by the Supplier, or (iii) upon the insolvency of the Supplier, or (iv) in the event bankruptcy or insolvency proceedings are instituted by or against the Supplier.

11. GENERAL

11.1 **Independent Contractor.** The Supplier is an independent contractor, solely responsible for its own employees and will not hold itself out as Customer's agent or employee or as otherwise under the control of Customer.

11.2 **Subcontractors:** The Supplier may not subcontract any of its obligations without Customer's written consent. Where a subcontractor is appointed in accordance with the terms of the Contract, the Supplier must ensure each subcontractor to comply, and be responsible for each subcontractor's compliance, with the Supplier's obligations and liabilities in the Contract.

11.3 **Assignment and other dealings.** The Supplier shall not assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights or obligations under the Contract unless agreed in writing with Customer.

11.4 **Entire agreement.** The Contract including these terms and conditions constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

11.5 **Variation.** Except as set out in these Conditions, no variation of the

Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Customer. Only written declarations/agreements can be used as proof of the existence of (legal) statements of the involved parties.

11.6 **Waiver.** Except as set out in clause 1.4, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

11.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.

11.8 Notices

(a) Any notice given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.8(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after the date of posting (a Business Day being a day (other than a Saturday, Sunday or public holiday) when banks in Amsterdam are open for business); if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.

(c) This clause does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.

11.9 **Force Majeure:** Exceptional circumstances shall not exclude a party's liability unless caused by events beyond that party's reasonable control including, without limitation, acts of God, epidemics, pandemics, acts or omissions of any government, any rules, regulations or orders issued by any governmental authority, war, rebellion, insurrection, riot, or invasion (**Force Majeure**). In the event of Force Majeure, neither party being prevented, hindered or delayed from carrying out its obligations as set out under this agreement shall be liable to the other party for any delay or failure to perform under the Order. The defaulting party shall notify the other party in writing as soon as reasonably practicable but no later than 24 hours from the start of the alleged Force Majeure event outlining the following: the event which the defaulting party reasonably believes to be a Force Majeure event, the defaulting party's obligations that may not be fulfilled as a result of the alleged Force Majeure event, and the likely or potential duration of the defaulting party's inability to fulfil their obligations. Each party agrees to use diligent efforts to minimize the effects of the Force Majeure. If the Force Majeure event keeps existing for more than 90 days, either party is entitled to terminate ("*opzeggen*") the Contract with immediate effect.

11.10 **Third party rights.** No one other than a party to the Contract and

Fresh Trading Limited as expressly referred to in clause 5 above and shall have any right to enforce any of its terms.

11.11 **Governing law.** 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 Dutch law. The UN Convention on Contracts for the International Sale of Goods 1980 (the Vienna Convention) as enacted into local law shall not apply.

- 11.12 **Jurisdiction.** Each party irrevocably agrees that the courts in 's-Hertogenbosch, the Netherlands, shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.