

These Terms of Trade (the “**Terms**”) set out the agreement for the sale of Products supplied by Ekaterra UK Limited (“**ekaterra UK**”) and Ekaterra Ireland Limited (“**ekaterra IE**”), as applicable (“**we**”/ “**us**”) to its direct purchasers (“**you**”) (together the “**parties**”). No other terms or alterations of the Terms shall apply to the supply of Products by us to you and the Terms shall prevail over and supersede any terms and conditions that you provide to us, unless we specifically and unequivocally agree otherwise, in writing.

### 1. Interpretation

#### 1.1. The following defined terms shall apply across the Terms:

“**Agreement**” means the legal agreement for the sale of Products between us and you, governed by the Terms;

“**Confidential Information**” means any and all information that is not in the public domain which is disclosed by one party to the other relating to the other party's business, the trading relationship between the parties and/or the basis upon which the Products are sold, such as: pricing information including the Price; discounts; profit margins and/or details of any future planned promotions, products (including products in development), supplier plans and category plans, recipes and product specifications and any other data which one party receives from the other or is derived by one party from its relationship with the other and which, if disclosed in breach of the Terms, is or is likely to be damaging to the other party (including that party's Group) or its business (including the business activities of that party's Group);

“**Customer(s)**” means any individual who directly purchases Products from you for personal use and/or consumption;

“**Delivery**” means a delivery of Products by us, our agents or distributors to you pursuant to an Order. “**Delivered**” in relation to any Products shall be construed accordingly;

“**Designated Retailer**” shall have the meaning given to it in Article 4(1) of the Groceries (Supply Chain Practices) Market Investigation Order 2009;

“**Group**” means, in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group;

“**Intellectual Property Rights**” means trade marks, service marks, copyright and related rights, patents, rights to inventions, business names and domain names, goodwill and the right to sue for passing off, rights in designs, database rights and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“**Insolvency Event**” means, in relation to a party, becoming insolvent under applicable legislation or suspending, or threatening to suspend, payment of its debts or becoming unable to pay its debts as they fall due or admitting inability to pay its debts or being deemed unable to pay its debts or entering into any insolvency procedure or taking or have any steps taken against it to place it in any insolvency procedure;

“**Irish Regulations**” means the European Union (Unfair Trading Practices in the Agricultural and Food Supply Chain) Regulations 2021;

“**Lead Time**” means the minimum number of days from placing an order with ekaterra to delivery;

“**Market Price List**” means the document containing the Prices, available from you ekaterra Point of Contact

“**Minimum Order Quantity**” means the minimum quantity of Products for each Order, as specified by your ekaterra Point of Contact

“**Order**” means an order for Products made by you to us in accordance with the Order Process;

“**Order Process**” means the use of an electronic data interchange (or similar technology) or email, as agreed between you and us, to order Products from us in line with the agreed Minimum Order Quantity;

“**Prices**” mean the prices of the Products specified in the Market Price List;

“**Products**” means the products listed in the Market Price List and Ordered by you pursuant to the Order Process;

“**Promotion**” means an offer made by you to Customers under which you agree, for a limited period, to sell specific Products at a reduced retail price, or with other goods or Products included for no extra charge or at a reduced retail price or subject to any other promotion similar, or having the same or similar effect;

“**Promotional Funding**” means funding provided by us to you, to fund, partly or in full, a Promotion;

“**Returns Procedure**” means the use of an electronic data interchange (or similar technology) or email, as agreed between you and us, by you to notify us of a return of any Products, and the subsequent issue by us to you of a collection reference number;

“**Shrinkage**” means losses that occur after the Products are delivered to your or your agent's premises and arise due to theft, the Products being lost or accounting errors; and

“**Wastage**” means Products which become unfit for sale subsequent to them being delivered to you.

#### 1.2. Where you are a Designated Retailer, the Terms shall incorporate the Groceries Supply Code of Practice. Where a provision of the Terms is inconsistent with the Code, the Code shall take precedence over the relevant provision in the

Terms.

- 1.3. Where we are ekaterra IE, and the Irish Regulations apply to the Agreement, the Irish Regulations shall take precedence over any provision of the Terms that is inconsistent with them.

### 2. Supply of Products

- 2.1. We, including through our agents or distributors, shall supply to you or your agents the Products listed in each Order, which shall be of satisfactory quality, in accordance with the Terms and the terms of each Order.
- 2.2. The Prices in force at the time of each despatch from our warehouse shall apply to the Products supplied under that Order.
- 2.3. No order for Products shall constitute a valid Order unless it complies with the Order Process.
- 2.4. Any Order or part thereof may be cancelled by us should manufacture or Delivery of the Products be prevented or hindered for any reason. Where we cannot satisfy an Order, either fully or in part, we shall not incur any liability in relation to non-Delivered Products and shall be under no obligation to process follow-on orders for such Products.
- 2.5. All Prices are exclusive of VAT, which will be added to all invoices at the appropriate rate.

### 3. Delivery and returns

- 3.1. Delivery times are estimates only and time shall not be of the essence for the delivery of Products, insofar as our liability is concerned.
- 3.2. We reserve the right to charge you demurrage at a rate of £75 per hour/part hour for any vehicle which is not discharged within 90 minutes of its arrival or of the agreed booking-in time, where one exists. Where we are informed or reasonably believe that a Delivery will be refused or made impossible due to an action or failure on your part, we may charge you for any reasonable costs in re-arranging the Delivery.
- 3.3. Unless otherwise agreed by us in writing, delivery is deemed "complete" when all Products in an Order are unloaded from our vehicle, into your premises.
- 3.4. Where you need to return any Products, you shall only do so where permitted under the Terms and strictly in accordance with the Returns Procedure.

### 4. Damages

- 4.1. Unless notification of any damages or shortages is given to us or our agent or distributor (as appropriate) during the Delivery, all Products on the delivery note will be deemed to have been received and accepted by you and may not subsequently be rejected or claimed for.
- 4.2. We shall not under any circumstances have any liability to you for any Shrinkage.
- 4.3. We shall not under any circumstances have any liability to you for any Wastage, except where this arises out of any negligence or fault by us.

### 5. Risk and Title

- 5.1. Risk in the Products shall pass to you upon a completed Delivery.
- 5.2. Title to the Products shall remain with us until the earlier of:
  - (a) us receiving payment in full for the Products, in which case title to these Products shall pass at the time of payment; or
  - (b) you reselling the Products, in which case title to them shall pass to you at the time specified in clause 5.5.
- 5.3. Where we have agreed to the return of any Products in line with the Terms, title (to the extent this has passed to you) and risk in these Products will transfer to us at the point at which they are collected by us, our agents or distributors from you.
- 5.4. Where title to such Products remains with us, you shall hold these Products on a fiduciary basis as our bailee and must store them, at your own cost, in the condition they have been Delivered in, separately and clearly identifiable as our property and shall insure them for their full replacement value.
- 5.5. Until title to the Products has transferred to you, you may resell the Products to Customers in the normal course of your business, by you dealing as principal and not as our agent. Title to those Products shall pass from us to you immediately before the time at which a resale occurs.
- 5.6. We and our agents and employees shall, at any time, be entitled to enter your and your agents' premises and vehicles, where Products for which ownership remains with us are reasonably thought to be in, in order to inspect and recover them, in the following circumstances:
  - (a) you fail to make a payment due to us under the Terms within 30 days after it falls due;
  - (b) you suffer or allow any distress or execution, whether legal or equitable, to be levied on your property or obtained against you; or
  - (c) you offer or threaten to offer, to make any arrangement with your creditors, or suffer an Insolvency Event, or if a receiver or administrative receiver or manager or, where we are ekaterra IE, an examiner is appointed over some or all of your business or assets.

### 6. Payment Terms

- 6.1. We shall endeavour (but not be obliged) to issue our invoices upon despatch of the Products they cover. Payment of all our invoices for the supply of Products to you must be made to us, in cleared funds, by bank transfer, quoting the invoice number, within 30 days of the date of each respective invoice, unless agreed otherwise by us in writing.
- 6.2. You shall not make any deductions from the payment of our invoices unless otherwise agreed by us in writing. If agreed in writing, all such deductions must be supported by a credit note issued by us. Where credit notes are being used as part of a payment, the credit note number(s) shall be quoted within your remittance advice.
- 6.3. If you fail to make any payment due to us in accordance with the Terms, we shall have the right to cancel or suspend any further Delivery in respect of any Order, in addition to and without prejudice to any other right or remedy available to us, including our right to receive interest calculated in accordance with applicable legislation.
- 6.4. Without prejudice to our other rights and remedies, we may, without notice to you, set off any amounts due by us to you against any overdue amounts you owe us.

### 7. Claims

- 7.1. You must submit all claims, queries and invoices arising from our supply of any Products, including all relevant supporting data, to us within the following timescales:
  - (a) any claim, query or invoice relating to the Products forming part of a Delivery must be submitted within 90 days of the completion of that Delivery in accordance with Clause 3.3;
  - (b) any claim, query or invoice relating to a Promotion must be submitted within 90 days of the end of the relevant Promotion; and
  - (c) without prejudice to the above, all claims, queries, invoices or supporting documents must be submitted within one year of the date of the Delivery of the Products to which the invoice, claim or query relates.
- 7.2. Notifications under Clause 7.1 shall be made via email to [claims.uk@lipton.com](mailto:claims.uk@lipton.com) or [claims.ireland@lipton.com](mailto:claims.ireland@lipton.com) and shall be accompanied by all relevant supporting data, which may include: an annotated proof of Delivery, price confirmation/authorisation from an authorised ekaterra representative, funding agreement, trigger sales data (for retrospective Promotion claims) and/or such other documentation as we reasonably request;
- 7.3. Where a claim is not submitted within requirements of Clause 7.1 and/or 7.2, we shall be under no obligation to consider such a claim or compensate you for any losses claimed for under that claim;
- 7.4. If a Customer complains to you about the quality of any Products supplied to you by us in accordance with the Terms, we shall reimburse you for the cost of refunding the Customer (at the retail price paid by them) as a goodwill gesture, in recognition of your assistance, provided that you disclose to us full details of the nature of the complaint.

### 8. Liability

- 8.1. Nothing in the Terms shall exclude either party's liability for death, personal injury or fraud, including fraudulent misrepresentation.
- 8.2. Under no circumstances shall we be liable for any penalties, administrative charges or other payments having such effect, which you seek to impose on us.
- 8.3. Our liability for any claim, whether in contract, tort (including negligence) or otherwise, for any loss or damage arising out of or in connection with or resulting from the manufacture, sale, delivery, resale, replacement or use of any of the Products will in no case exceed the Price paid by you for the Products which give rise to the claim. We will be entitled to replace such Products in settlement of our liability.
- 8.4. Neither party shall be liable to the other for any:
  - (a) loss of profit;
  - (b) reputational damages;
  - (c) loss of goodwill; or
  - (d) any indirect or consequential losses;suffered by the other party as a result of any fault in the Products or a breach of the Terms.

### 9. Insurance

- 9.1. Each party shall maintain, for the duration of the applicability of the Agreement and for seven years thereafter, public liability (and in our case, product liability) insurance cover, to cover its liabilities arising from the Terms.
- 9.2. Each party shall be entitled to receive timely evidence from the other party of its continued compliance with Clause 9.1, upon request.

### 10. Intellectual Property

- 10.1. All Intellectual Property Rights in anything that we supply to you, including the Products and their package design, are, and

shall remain, our property.

10.2. Neither party shall have the right to use or exploit the Intellectual Property Rights of the other party including, without limitation, in or on, all forms of media including social media, without the other party's express written consent.

### 11. Confidentiality

11.1. Each party shall keep confidential any and all Confidential Information of the other party that comes into its possession, except as required by law. In particular, neither party shall disclose any Confidential Information of the other party to any competitor of the other party, any of the other party's suppliers or to the media (including social media).

11.2. Neither party shall tell any third party about the terms of business applicable between the parties, except as required by law.

### 12. Data Protection

12.1. To the extent personal data is processed between the parties under the Agreement, each party shall comply with all applicable laws, statutes and regulations relating to personal data, and shall not do anything to cause the other party to be in breach of them.

12.2. Each party shall be considered an independent data controller over any personal data processed under the Agreement.

### 13. Force Majeure

13.1. Except in relation to your obligation to comply with Clause 6 (Payment Terms) which is absolute, neither us nor you shall be liable to the other party for any loss or damage howsoever caused by delay or failure to perform any obligations under the Agreement, where such delay or failure is caused by circumstances beyond the relevant party's control. This includes, without limitation, strikes or industrial action, any events causing a government or local authority-imposed "lockdown", war, terrorism, a pandemic, and/or natural disasters.

13.2. If a party affected by the circumstances listed in Clause 13.1 it shall notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so.

### 14. Anti-Bribery

14.1. Each of the parties shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption. Where we are ekaterra UK, neither party shall engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010. Where we are ekaterra IE, neither party shall engaged in any activity, practice or conduct which would constitute an offence under the Criminal Justice (Corruption Offences) Act 2018. Our Anti-Corruption and Anti-Bribery policies are contained in our [Code of Business Principles](#).

### 15. Promotions

15.1. Promotional Funding shall be made available to you only in accordance with the Terms and only where you comply with Clause 6.1 of the Terms in relation to any claim for Promotional Funding.

15.2. Where it is agreed that we will provide Promotional Funding to you for a Promotion, the payment of such Promotional Funding shall only be made:

- (a) in respect of sales made in the United Kingdom or Ireland (as appropriate) during the agreed period of the Promotion;
- (b) with respect to the specific Products agreed to be the subject of the Promotion;
- (c) up to the maximum Promotional Funding amount agreed by us; and
- (d) only where you have complied with the mechanic for the Promotion agreed by us.

15.3. Any agreement for the provision of Promotional Funding shall not, unless agreed otherwise, limit you from increasing the value of a Promotion to a Customer beyond that of the Promotional Funding to be provided by us.

15.4. Promotional funding is only available to you if the specific Products covered by the Promotion were purchased directly from us and you then resell such Products directly to Customers in the United Kingdom or Ireland (as appropriate), to the extent that you can prove (to our reasonable satisfaction) that the Promotional Funding has been passed on to Customers who purchased such Products directly from you during the agreed period of the Promotion.

15.5. You shall provide all sales and other relevant supporting data verifying that the Products, for which the Promotional Funding is claimed or provided, were purchased, sold and the Promotional Funding passed on, in accordance with Clause 15.4 or Clause 15.5 (as applicable). Such supporting data may include an annotated proof of Delivery, price confirmation/authorisation from an authorised representative of ours, funding agreement, trigger sales data (for retrospective promotional claims) and/or such other documentation as we reasonably request. We shall have the right to audit all sales and other relevant data in your (or your Group's) possession relating to the purchase and sale of the Products, the Promotion and the claim for Promotional Funding.

15.6. If you breach any provision of this Clause 15 (Promotions), then without prejudice to any other rights or remedies we may have, we shall be entitled to:

- (a) withhold payment of the Promotional Funding;
- (b) if paid, reclaim the entire amount of the Promotional Funding (payable immediately upon the issue of an appropriate

invoice) and/or set it off against other sums due to you;

- (c) cease to offer any further Promotional Funding; and
- (d) cease to supply the Products during the agreed period of the Promotion.

15.7. Promotional Funding is made available at all times subject to, and we accept no liability to the extent legally permissible for any loss suffered due to:

- (a) stock unavailability;
- (b) price changes made by us; or
- (c) marketing plan changes.

15.8. You shall have full responsibility for complying with any restrictions relating to the placement of Products and/or terms of a Promotion under the Food (Promotion and Placement) (England) Regulations 2021 or any other laws and regulations relating to certain foods and drinks that are high in fat, salt or sugar (HFSS) and you shall hold us harmless and indemnify us against any claims by third parties relating to alleged breaches of these laws and regulations.

### 16. Termination

16.1. Either party may issue a written notice to the other party which brings the Agreement to an end:

- (a) immediately, if the other party stops trading or suffers an Insolvency Event;
- (b) immediately, if the other party commits a material breach of the Terms which is irremediable or not remedied within 28 days (including, without limitation non-payment by you of any payment due to us under the Terms); or
- (c) for convenience, provided that the notice given to the other party is at least three calendar months.

16.2. If a party terminates the Agreement, it will not affect its rights and actions accumulated before termination or the validity of any debt or liability which is owed by one party to the other before termination.

16.3. Where we, our agents or distributors have commenced the haulage of Products to be Delivered to you before the termination of the Agreement, and such Delivery is refused by you because of the termination of the Agreement, you shall remain liable for the wasted costs associated with the non-completed Delivery, which we shall endeavour to attempt to mitigate.

16.4. Clauses 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16 and 19 shall survive the termination of the Terms.

### 17. Dispute Resolution

17.1. Without prejudice to Clause 7 (Claims) and Clause 19.8, nor any other right or liability, if a dispute arises between the parties in relation to any matter, including an alleged breach of Terms, then the parties shall negotiate in good faith to resolve the matter.

17.2. Where you are a Designated Retailer, if we believe that you have not fulfilled your obligations under the Groceries Supply Code of Practice, we shall have the right to contact your Code Compliance Officer, and/or initiate a dispute resolution procedure under Article 11 of the Groceries (Supply Chain Practices) Market Investigation Order 2009.

17.3. Where we are ekaterra IE and where the Irish Regulations apply to the Agreement and if we believe that you have not fulfilled your obligations under the Irish Regulations, we shall have the right to contact your appropriate compliance officer(s) and/or make a complaint under Part 3 of the Irish Regulations.

### 18. Warranty

18.1. All Products supplied in accordance with the Terms are at the time of Delivery guaranteed to conform in every respect with the requirements of applicable food safety legislation – where we are ekaterra UK this is the Food Safety Act 1990 and where we are ekaterra IE, this includes, without limitation, Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (as amended) and any applicable implementing legislation.

### 19. General

#### 19.1. Notices.

- (a) Where we are ekaterra UK, any notice issued under the Terms shall be made in writing, sent by first class post, Special Delivery post or email. A notice shall be treated as having been received two business days after the date on which it was posted or, in the case of email, at the time it was sent (if the email is received after 5pm on a working day, it will be treated as being received on the next working day). Where posted, any notices to us shall only be valid if sent to our registered office address at 10 York Road, Lambeth, London, United Kingdom, SE1 7ND.
- (b) Where we are ekaterra IE, any notice issued under the Terms shall be made in writing, sent by Registered Post, Express Post or email. A notice shall be treated as having been received two business days after the date on which it was posted or, in the case of email, at the time it was sent (if the email is received after 5pm on a working day, it will be treated as being received on the next working day). Where posted, any notices to us shall only be valid if sent to our registered office address at 38/39 Fitzwilliam Square West, Dublin 2, Ireland.



- 19.2. **Entire Agreement.** The Terms constitute the entire agreement between the parties and the Agreement supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies for, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement. Nothing in the Agreement shall limit or exclude any liability for fraud.
- 19.3. **No waiver.** A waiver of any right or remedy available under the Terms is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 19.4. **Assignment.** We may assign or subcontract any or all of our rights and obligations under the Agreement. You may not assign or subcontract any or all of your rights under the Agreement. Neither party may novate, transfer, charge or declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement without the prior written consent of the other party.
- 19.5. **Severance.** If any provision or part-provision of the Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Terms.
- 19.6. **Variation.** No variation of these Terms by you shall have legal effect, unless we specifically and unequivocally agree otherwise, in writing. We reserve the right to make changes to the Terms from time to time, provided that any such change shall not have a material adverse effect on you. Where we do so, we shall endeavour to give you notice of the same of no less than three calendar months.
- 19.7. **Third Party Rights.** The Terms do not give rise to any entities who are not parties to it. Where we are ekaterra UK, this agreement does not give any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.
- 19.8. **Applicable Law and Jurisdiction.** Where we are ekaterra UK, the Agreement shall be governed by the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English Courts. Where we are ekaterra IE, the Agreement shall be governed by the laws of the Republic of Ireland and shall be subject to the exclusive jurisdiction of the Irish Courts.