

TERMS & CONDITIONS OF PURCHASE (the "Conditions")



1 Definitions & Interpretation

1.1 In these Conditions the following terms have the following meanings:

"**Applicable Law**" all statutes, laws, statutory instruments, bye-laws enactments, orders, rules, regulation or other similar instruments having the force of law in the territory where the Goods or Services are supplied together with the other requirements, standards, codes, specifications and conditions of any relevant competent authority;

"**Burton's**" Burton's Biscuit Company (a trading name of Burton's Foods Limited) (company number 2086754) whose registered office is at 74-78 Victoria Street, St Albans, Herts AL1 3XH;

"**Contract**" any agreement between Burton's and the Supplier for the purchase of Goods and/or Services together with these Conditions and the Order;

"**Good Industry Practice**" the use of standards, practices, methods and procedures conforming to Applicable Law and the exercise of that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the provision of similar services to an entity of a similar size and nature as Burton's under the same or similar circumstances;

"**Goods**" goods of any description including plant, machinery, equipment, vehicles, materials, ingredients and packaging materials (whether raw or partially or wholly manufactured);

"**Intellectual Property Rights**" patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use and protect the confidentiality of, confidential information (including without limitation know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including without limitation 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 together with all rights of action, powers and benefits arising from ownership of any such rights, including without limitation the right to sue for damages and other remedies in relation to all causes of action arising before, on or after the date of this agreement;

"**Order**" the duly authorised order(s) or purchasing agreement form(s) submitted by Burton's to the Supplier for the purchase of Goods and/or Services (as may be amended in accordance with condition 2.4);

"**Price**" the price of the Goods and/or Services as specified in the Order;

"**Services**" the services, if any, described in the Order; and

"**Supplier**" the supplier whose details appear on the Order.

1.2 In these Conditions: (a) the headings are included for convenience only; (b) the expressions "**including**", "**include**", "**in particular**", "**for example**" and any similar expressions shall not limit the preceding words; (c) words in the singular shall include the plural and vice versa, references to any gender shall include all genders and references to legal persons shall include natural persons and vice versa; and (d) references to any statute or statutory provision will, unless the context otherwise requires, be construed as including references to any amended and/or replacement statute or statutory provision.

2 Application of these Conditions

2.1 Subject to condition 2.2 Burton's enters into contracts of purchase subject solely to these Conditions and to the exclusion of all other terms, conditions, warranties or representations including any terms or conditions specified or referred to in any quotation

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or order acknowledgement form issued by the Supplier or any consignment agreement supplied by the Supplier to Burton's. No variation to these Conditions shall be binding unless agreed in writing by an authorised officer of Burton's and for the avoidance of doubt no other servant or agent of Burton's has any authority to vary these Conditions in any way.

- 2.2 In the event of a conflict between these Conditions and any specific terms and conditions (whether of a main contract or otherwise) on the face of the Order, then the latter shall prevail but only to the extent that a term on the Order is unambiguously and expressly agreed to vary these Conditions.
- 2.3 The Order constitutes an offer by Burton's to purchase the Goods and/or acquire the Services subject to these Conditions. Save where the Supplier has rejected the Order or both parties have agreed to amend the terms of the Order, the Order shall be deemed to be unconditionally accepted by the Supplier subject to these Conditions and a binding Contract shall come into existence on the earlier of:
 - (a) the Supplier signing or issuing written acceptance of the Order; or
 - (b) any act by the Supplier consistent with fulfilling the Order (for example commencement of the Services or delivery of the Goods); or
 - (c) the expiry of three (3) days from the date of the Order.
- 2.4 Burton's shall not be bound by any Order or amendments thereto which are not issued or confirmed on Burton's official/printed Order, amendment forms or other authorisation signed by an authorised officer on behalf of Burton's.

3 Delivery / Advice Notes / Packaging

- 3.1 All Goods supplied under the Order must be properly packed and secured in accordance with Burton's packaging standards (where applicable) and in such manner as to reach their destination in good condition. A copy of the relevant packaging standards will be available on request.
- 3.2 Goods shall (unless otherwise directed by Burton's) be delivered by the Supplier, carriage paid at the Supplier's expense, to Burton's delivery address on the date and at the times specified on the Order and in accordance with Burton's instructions. Unless otherwise stated on the Order, delivery by road must be pre-booked and can only be received from Monday to Thursday (inclusive) between 8.00 am until 12 noon and 1.30pm until 4.00pm and on Friday from 8.00am until 12 noon only. Friday afternoon and weekend deliveries are by appointment only.
- 3.3 The Supplier shall on or prior to delivery of the Goods provide adequate information and instructions as to the transport, handling or use for which the Goods were designed including all information about any potential hazard believed to exist including COSHH documents and such other similar documentation which relate to the Goods.
- 3.4 Delivery shall be effected when the Goods have been unloaded (and, if applicable, installed at the location specified by Burton's) and the delivery has been accepted by a duly authorised officer, employee or representative of Burton's who signs the carrier's consignment note to that effect.
- 3.5 In the event that Goods are delivered before the date specified in the Order then Burton's shall be entitled at its sole discretion to either: (a) refuse to take delivery of the Goods in which case the Supplier shall store the Goods free of charge until such time as Burton's shall notify the Supplier that it is able to accept delivery; or (b) charge the Supplier for insurance and storage of the Goods until the delivery date specified in the Order (such sums to be deducted in accordance with condition 6.9).
- 3.6 The Supplier shall perform the Services on the date and at the times specified on the Order, and where no date is specified within a reasonable period of time from the date of the Order, unless otherwise agreed between the parties from time to time.

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- 3.7 In the event of any strike, lock-out, fire, explosion or accident or of any stoppage of Burton's business or work for reasons beyond its reasonable control which may prevent or hinder the use of the Goods or performance of Services the subject matter of the Order, then delivery of such Goods or completion of performance of such Services and the payment therefore may be suspended or postponed at Burton's option until the circumstances preventing or hindering the use of such Goods or performance of Services has ceased.
- 3.8 The Supplier shall promptly notify Burton's if it will be unable to supply the Goods under the Contract (**Failure to Supply**) and shall work with Burton's to find a suitable interim solution to ensure continuity of supply to Burtons. In the event the Failure to Supply is ongoing for a period of 14 successive days, Burton's shall have the right to terminate the Contract immediately and without liability. The supplier will compensate Burtons for any costs Burton's incurs associated with ensuring continuity of supply and/or terminating the contract and engaging a new supplier.
- 3.9 If the Order specifies that a certain carrier is to be used such carrier shall be deemed to be an agent of the Supplier and not of Burton's.
- 3.10 The Supplier shall not deliver the Goods or perform the Services in instalments without Burton's prior written consent. If the Goods are to be delivered or the Services are to be performed by instalments the Contract will be treated as a single contract and not severable.
- 3.11 On the day of dispatch of each consignment of Goods the Supplier shall send to the address stated on the Order, Advice(s) of Dispatch quoting on each Burton's Order Number, Stock Number (when provided) and date of dispatch.
- 3.12 On the final delivery of Goods or Services under a Contract the advice of dispatch must be marked "Final delivery ex order no ...".
- 3.13 The Supplier will label all Goods in accordance with any statutory or other legal labelling requirements and regulations including all information necessary or desirable for the proper and safe administration, storage and identification of all deliveries of the Goods. The Supplier shall also comply with all specific instructions given by Burton's in relation to labelling from time to time. A specification will be issued by Burton's on request. In any event all packages, including postal, must be clearly marked with Burton's order number, details of quantity and description of Goods and stock number (where applicable) and the Supplier's name.
- 3.14 All Goods are to be delivered on GKN blue pallets, unless otherwise agreed (in advance of delivery) by Burton's in writing.
- 3.15 The Supplier shall not modify the design of the Goods or Services without the prior written consent of an authorised officer of Burton's.
- 3.16 The Supplier shall, at Burton's request, provide Burton's with one set of samples (free of charge) and the bulk of the Goods shall not be delivered until Burton's has approved the sample in writing. Burton's may retain the samples until all the relevant Goods have been delivered.

4 Time

- 4.1 Where time of performance is specified in the Order such provision shall be of the essence of the Contract.
- 4.2 Failure by the Supplier to adhere to any provision as to time contained in the Order shall entitle Burton's at its option to treat the Contract as repudiated in whole or in part and Burton's reserves the right to purchase the Goods or Services from other sources and to charge the Supplier, on an indemnity basis, for any extra cost Burton's incurs in doing so.
- 4.3 Burton's shall be entitled to exercise its option pursuant to condition 4.2 at any time notwithstanding that it has acquiesced in any delay save where a written extension of time has been given to the Supplier by an authorised officer of Burton's and the time of any

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extension has not elapsed.

- 4.4 Failure by Burton's to exercise its option under condition 4.2 in respect of any part of a Contract shall not be deemed to constitute a waiver with respect to any subsequent part of that Contract.
- 4.5 Without prejudice to condition 4.2, where Supplier is unable to dispatch Goods in time to reach Burton's by the dates specified in the Order, the Supplier shall at its own expense, if so requested by Burton's, deliver the Goods by whatever means necessary to ensure they reach Burton's as soon as practicable after the dates specified in the Order.
- 4.6 The Supplier shall notify Burton's immediately if it anticipates that there will be a delay in delivery and it will provide Burton's with an estimated new delivery date and time.

5 Acceptance

- 5.1 Burton's shall not be deemed to have accepted any Goods or Services unless expressly confirmed in writing by an authorised officer, employee or representative of Burton's. For the avoidance of doubt, neither inspection nor testing by Burton's or its representatives whether before or after physical delivery of the Goods nor the signing of any delivery note or other document acknowledging physical receipt of any Goods, nor the resale of any Goods shall constitute evidence of acceptance or approval of the Goods.
- 5.2 Without prejudice to condition 5.1 Burton's shall use reasonable endeavours to notify the Supplier of any Goods incorrectly delivered or damaged in transit or delayed during transit.
- 5.3 If the Goods are faulty, have certain defects or do not comply with stated specifications or requirements, Burton's shall be entitled to return the Goods to the Supplier at the Supplier's expense within a reasonable period of time after the delivery.
- 5.4 If the Supplier delivers Goods in excess of the quantities detailed in the Order Burton's shall not be bound to pay for the excess and the Supplier shall be responsible for all risk in, and cost associated with returning, such excess Goods and any associated packing materials.

6 Price & Payment

- 6.1 Unless otherwise specified in the Order all Prices are fixed, exclusive of Value Added Tax ("VAT") and inclusive of all charges for packing, packaging, shipping, carriage, insurance and delivery and any other applicable duties, tariffs and taxes. Burton's shall, on a receipt of a valid VAT invoice from the Supplier, pay to the Supplier within the Payment Period in condition 6.7 such additional amounts in respect of VAT as are chargeable on a supply of the Goods.
- 6.2 Should Burton's be required to pay duties or tariffs in relation to the Goods, Burton's may deduct such costs from the Price.
- 6.3 No payment of or on account of the Price shall constitute any admission by Burton's as to proper performance by the Supplier of its obligations under the Contract.
- 6.4 For the avoidance of doubt, the Supplier may not increase the Price (whether on account of increased materials, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of an authorised officer, employee or representative of Burton's.
- 6.5 In the event of any dispute arising under a Contract or any other agreement between the parties Burton's shall be entitled, without prejudice to any other rights or remedies, to withhold future payments of the Price or to make such retention or set off as it considers fair and reasonable in the circumstances until the resolution of such dispute. Nothing in this condition 6.5 shall entitle the Supplier to suspend or delay the proper performance of its obligations under a Contract.
- 6.6 No payment will be made by Burton's for containers, pallets, crates or packing materials

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of any description except by special arrangement in writing (including any returnable containers). The Supplier must notify Burton's of its intention to collect any containers, pallets, crates or packing materials and collect such items within one month of the date of delivery failing which Burton's may dispose of the same without any liability. The items will be available for collection by prior arrangement following delivery provided they are clearly marked with the Supplier's name.

- 6.7 The Supplier may only invoice Burton's for any amounts due under a Contract on or after the delivery of the Goods and/or performance of the Services in accordance with condition 3.12. Unless otherwise specified in the Order, Burton's shall pay each valid invoice in Pounds Sterling within sixty (60) days of the end of the month in which Burton's received the invoice ("**Payment Period**"). Time for payment shall not be of the essence.
- 6.8 Failure to comply with the following obligations may mean delay in payment but no prompt payment discount shall be forfeited by Burton's due to the failure of the Supplier:
- (a) to send on the day of dispatch for each consignment such advice and invoice(s) as may be indicated on the Order; or
 - (b) to send a monthly statement of account quoting the invoice numbers applicable to each item thereon; or
 - (c) to mark clearly Burton's **ORDER NUMBER** and **STOCK NUMBER** (when provided) on the consignment package, packing notes, advice notes, invoices, monthly statements and all other correspondence relating thereto.
- 6.9 Burton's reserves the right to deduct from any monies due or becoming due from Burton's to the Supplier any monies due from the Supplier to Burton's or to any parent, subsidiary or associated company of Burton's.
- 6.10 Burton's shall be entitled to any discount for prompt payment, bulk purchase or volume purchase customarily granted by the Supplier whether or not shown on the Supplier's terms of sale.

7 Risk & Title

- 7.1 Unless otherwise specified in the Order, risk in the Goods shall pass to Burton's upon completion of delivery to Burton's in accordance with condition 3.4. The Supplier shall be responsible for transport and unloading costs and insurance of Goods to their full value against all risks of damage or loss prior to completion of delivery by whomsoever effected.
- 7.2 Ownership of the Goods shall pass to Burton's on the earlier of: (a) the Goods being selected for the purposes of the Order; (b) payment being made for the Goods; and (c) delivery of the Goods in accordance with condition 3.4.
- 7.3 All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under the Contract shall be and remain at the sole risk of the Supplier whether or not they are on Burton's premises or elsewhere pursuant to the Order.
- 7.4 Burtons shall have the right to retain ownership of tools used by the Supplier if it has paid for them, whether directly or by amortising the tooling cost into unit prices. This right is applicable regardless of whether the tools are located on the Supplier's premises or elsewhere.
- 7.5 Where the Supplier has contracted to perform Services or work upon Goods or materials without title thereto passing to or belonging to the Supplier then in such event risk shall pass to the Supplier in respect of such Goods and materials when it takes delivery thereof and it shall remain at the Supplier's risk until the Goods or materials processed or worked upon as the case may be are redelivered to Burton's. Delivery for the purposes of this condition 7.5 shall mean the time of parting with physical possession by Burton's and redelivery shall mean acceptance of delivery by a duly authorised officer, employee or representative of Burton's.

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8 Designs

- 8.1 All patterns, materials, drawings, specifications, designs, copyrights and other data provided by Burton's in connection with the Order and all Intellectual Property Rights arising in the same will at all times remain the property of Burton's. Burton's hereby grants the Supplier a revocable, non-exclusive license to use such Intellectual Property Rights during the term of the Contract subject to the Supplier:
- (a) delivering up such items to Burton's on completion of the Order or otherwise on request in good condition;
 - (b) only using such items solely for the purpose of completing the Order;
 - (c) keeping all such items confidential and shall not disclose them or details of them to any third party (save to the extent that any information is or becomes public knowledge through no fault of the Supplier); and
 - (d) keeping all such items safe, not make any modifications to nor part with possession of any of them and shall promptly replace any items which are lost or damaged.
- 8.2 Any and all Intellectual Property Rights that are created by or on behalf of the Supplier for Burton's in accordance with this Contract in respect of the Goods shall, at creation, immediately vest in Burton's. The Supplier hereby assigns or agrees to procure the assignment of such Intellectual Property Rights to Burton's with full title guarantee and free of any encumbrances.
- 8.3 To the extent that the Goods incorporate any Background Rights owned by the Supplier (or any third party licensors) the Supplier hereby grants to Burton's an irrevocable, non-exclusive, worldwide, perpetual, royalty free, assignable licence and all necessary permissions and/or consents required (with full right to sub-license) to use and exploit the Supplier's Background Rights to enable Burton's to use and/or sell the Goods.
- 8.4 Under no circumstances are blocks, designs or cylinders or plates to be scrapped or removed without prior written permission from a duly authorised officer, employee or representative of Burton's.
- 8.5 Disposal of Burton's property, including the property referred to in condition 8.1 above, must be done in an appropriate manner subject to all legislation. Disposal notices shall be provided by the Supplier upon request by Burton's.

9 Inspection

Any inspector or representative authorised by Burton's shall be entitled to inspect the Supplier's works or the works of any sub-contractor, including all machinery and tooling operated in connection with the Order and to inspect the Goods either complete or in the process of manufacture or, as the case may be any Services being performed under the Contract at any reasonable time either at the Supplier's premises or the premises of any sub-contractor and to require all defects or deficiencies to be made good and alterations made in the event of any failure in the opinion of Burton's to comply with the terms of the Order, provided nevertheless that such inspection or right to inspect shall not of itself constitute acceptance or approval of the Goods and/or Services.

10 Duty To Inform

The Supplier agrees to provide Burton's promptly with all information which could affect the trading relationship between Burton's and the Supplier.

11 Title, Quality & Guarantee

- 11.1 The Supplier warrants that the Goods shall be:
- (a) of first class quality;
 - (b) manufactured and supplied in accordance with Good Industry Practice;

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- (c) fit for any purpose held out by the Supplier or made known to the Supplier at the time the Order is placed (whether implied or explicit)
- (d) supplied strictly in accordance with any sample (where provided) and the quantities, drawings, specifications, standards and stipulations contained in or annexed to the Order; and
- (e) free of defects in design, material and workmanship.

11.2 The Supplier warrants that:

- (a) in the production, supply and distribution of the Goods and the provision of information relating thereto it will comply with the duties imposed on it by Applicable Law;
- (b) where applicable, the Goods shall conform to all Applicable Law including the Food Safety Act 1990, the Consumer Protection Act 1987, the Trade Descriptions Act 1968 and the Consumer Protection from Unfair Trading Regulations 2008 and any regulations made thereunder from time to time in force so far as they are applicable to the Goods including labelling, storage and packaging regulations and any Applicable Laws in any country to which the Goods are to be exported as specified in the Order;
- (c) it will perform the Contract such that no liability is incurred by Burton's under any Applicable Law;
- (d) there will be no cross-contamination of the Goods by any ingredients which are not set out in the specifications and, in particular, the Goods shall not contain any ingredients or substances which are not set out in the specifications which are known to cause or may cause allergic reactions in humans or which are specified by any relevant Applicable Law as being required on the packaging of the Goods. The Supplier shall immediately notify Burton's if any of the foregoing should occur or it has reasonable grounds to suspect that the same has occurred; and
- (e) all Goods supplied which shall be used for packing foodstuffs, including printing inks, shall be free from grease, odour, poisonous and any toxic and/or injurious substances and suitable in every respect for food packaging.

11.3 All work and Services performed by the Supplier shall be in accordance with best practice including any codes of practice, ethical trading initiatives or other industry requirements whether or not notified to the Supplier by Burton's and shall pass such inspection(s) as may be required by Burton's, its customers or their agents or any Government department concerned.

11.4 The Supplier warrants that it shall provide the Services:

- (a) in accordance with Good Industry Practice;
- (b) using reasonable care and skill;
- (c) using appropriately qualified, skilled and experienced personnel; and
- (d) strictly in accordance with any drawings, specifications, standards and stipulations contained in or annexed to the Order or otherwise provided or made known to the Supplier in writing at the time the Order is placed.

11.5 The Supplier warrants that it shall not do or omit to do anything which may:

- (a) bring the name or reputation of Burton's into disrepute or prejudice the interests of the business of Burton's; or
- (b) cause Burton's to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business and the Supplier acknowledges that Burton's may rely or act on the Services.

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- 11.6 The Supplier further warrants its expertise and confirms the accuracy of all statements and representations made in respect of the Goods and/or Services prior to the Contract arising.
- 11.7 Nothing contained in these Conditions shall in any way limit or exclude the Supplier's obligations under common law or statute or any express warranty or condition contained in the Order.
- 11.8 Notwithstanding that:
- (a) Burton's has accepted the Goods and/or Services (in whole or part); or
 - (b) title to the Goods has passed in accordance with condition 7.2,
- any breach by the Supplier of an express or implied condition to be fulfilled by it may (subject to condition 11.11) be regarded as a ground for rejecting the Goods and/or Services as defective and treating the Contract as repudiated.
- 11.9 Burton's shall be entitled to require the Supplier to perform the obligations contained in condition 11.11 or, at its option, reject the Goods and/or Services (or any consignment thereof) and treat the Contract as repudiated at any time prior to the expiration of the following periods:
- (a) where the defect or shortage is apparent on a visual inspection, three (3) months after delivery of the Goods to Burton's or completion of the Services, or
 - (b) in any other case three (3) months after Burton's has discovered the defect in question.
- 11.10 Where Burton's discovers a defective Good in any given batch of Goods delivered at the same time, Burton's shall be entitled to reject the entire batch.
- 11.11 Without prejudice to Burton's right to treat the Contract as repudiated or any other remedy available to Burton's, where Burton's notifies the Supplier that any of the Goods and/or Services are not supplied in accordance with the Contract, Burton's may:
- (a) reject the Goods or Services (in whole or in part) in which case the Supplier shall promptly refund to Burton's the full amount of the Price paid and, in respect of any non-conforming Goods, Burton's shall, if so requested by the Supplier within twenty-eight (28) days of Burton's notifying the Supplier of its claim, return the Goods to the Supplier at the Supplier's risk and cost. If no request to return the Goods is received, Burton's may destroy or otherwise dispose of the Goods;
 - (b) require the Supplier to repair the Goods or to supply replacement Goods in accordance with the Contract within seven (7) days of Burton's notice of its claim;
 - (c) require the Supplier to re-perform the Services in accordance with the Contract within seven (7) days of Burton's notice of its claim;
 - (d) require the Supplier to promptly carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - (e) refuse to accept any subsequent delivery or instalment of Goods and/or Services;
 - (f) carry out (at the Supplier's cost) any work necessary to make the Goods and/or Services comply with the Contract;
 - (g) at Burton's sole option, and whether or not Burton's has previously required the Supplier to replace Goods or re-perform the Services, to treat the Contract as discharged, either in its entirety or in relation to such Goods and/or Services that are directly affected by the Supplier's breach and require the repayment of the proportion of the Price paid which relates to such Goods and/or Services; and/or
 - (h) claim such damages as Burton's may have sustained as a result of the Supplier's breach(es) of the Contract.

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- 11.12 Where appropriate, the Supplier may need to obtain approval in writing from Burton's before supply commences.

12 Cancellation

- 12.1 Without prejudice to any other specific provision of the Contract or any other right available to it, Burton's shall have the right to cancel the Contract in whole or in part at any time by giving written notice to the Supplier whereupon all work under the Order (or the cancelled part) shall be discontinued and Burton's shall pay to the Supplier such proportion of the Price as may be fair and reasonable having regard to the value of the work done, the Goods previously delivered and the Services performed pursuant to the Order (including an element of profit to be calculated on a pro rata basis by reference to the net profit margin on the Contract as a whole which the Supplier can evidence to the satisfaction of Burton's it would have obtained had the Contract proceeded to completion) and on such payment (which shall be the Supplier's sole and exclusive remedy for such cancellation) no further sum(s) shall be due by way of damages, loss of profits or otherwise from Burton's to the Supplier by reason of such cancellation.
- 12.2 For the avoidance of doubt the provisions of this condition 12 shall not apply in respect of any orders placed by Burton's for the supply of Goods to Burton's in accordance with any stock consignment agreement. Any Goods ordered and placed with Burton's under such an agreement may be returned to the Supplier without payment so long as the Goods are in good saleable condition or if the Goods were received in less than saleable condition the same condition as when received by Burton's.

13 Health & Safety

- 13.1 The Supplier warrants that:
- (a) in the design, manufacture, supply and installation of the Goods and the provision of information relating thereto and performance of the Services (including all work undertaken on Burton's site(s)) it will comply with the duties imposed on it by the Health and Safety at Work Act 1974 and all other Applicable Law so far as it is applicable to Burton's site or the Goods and/or Services and that it will perform the Contract such that no liability is incurred by Burton's under such Applicable Law; and
 - (b) all Goods will be supplied with all necessary safety guards and devices sufficient to comply with all Applicable Law and the most recent editions of all applicable British or European Standards (including any amendments). The Supplier shall provide copies of test certificates from UKAS (United Kingdom Accreditation Service) or equivalent accredited testing organisations to the satisfaction of Burton's. Goods requiring test certificates shall be resubmitted for test at intervals of no more than two years and certified copies of test certificates and results certified by the testing organisation which issued them must be provided to Burton's promptly upon receipt by the Supplier. Where Goods are to be supplied without guards or safety devices then the Supplier must (i) state such to be the case in writing in its quotation or acknowledgement of order; and (ii) specify in writing such guards and devices as will be required to be purchased by Burton's.
- 13.2 The Supplier shall promptly inform Burton's of any matter of which the Supplier is or reasonably should, as a supplier of the Goods, be aware relating to the sale of the Goods by Burton's or the storage, transportation, handling, assembly or use of the Goods by Burton's or its customers (including legislation or advice from responsible or professional or legal bodies in respect of raw materials or chemicals used in the manufacture of the Goods) and the actions it has taken or proposes to take and those that Burton's or its customer should take in relation to such matters.
- 13.3 The Supplier shall procure that all of its personnel and the personnel of its subcontractors working on Burton's site(s) shall comply with Burton's "Rules and Conditions on Site", including security procedures. A copy of these rules shall be available on request.

14 Indemnity & Liability

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- 14.1 The Supplier shall indemnify and hold Burton's harmless against all losses, liabilities, costs, damages, expenses and claims (including legal expenses, losses arising from any period of time during which a Burton's factory is unable to manufacture any and all lines of goods (**Down Time**), other direct losses, indirect losses and any and all consequential loss or damage) awarded against or incurred or paid by Burton's as a direct or indirect result of or in connection with:
- (a) the Supplier's failure to fulfil its express or implied obligations under the Contract;
 - (b) any claim that the Goods and/or Services or the importation, use, or resale of the Goods or Services (as appropriate) infringe the Intellectual Property Rights (including any patent, design right, copyright or trade mark) or misuse the confidential information of any third party, save to the extent that the claim solely arises from the Supplier's compliance with designs supplied by Burton's;
 - (c) any claim in respect of royalties payable by the Supplier in respect of the Goods;
 - (d) any claim that the Goods or Services are defective or do not conform to general safety requirements pursuant to the provisions of the Consumer Protection Act 1987 or otherwise;
 - (e) any examination, withdrawal and/or recall of Goods in accordance with condition 22.2 (including all loss of profits on sales, rehabilitation costs, administration charges, carriage and disposal associated with such examination, withdrawal and/or product recall);
 - (f) any consumer complaints in respect of the Goods (including a reasonable administration charge per complaint, the cost of re-imbursement and/or compensation paid); and
 - (g) any act or omission of the Supplier, its employees, agents or its sub-contractors and any claims made against Burton's arising out of the same.
- 14.2 In the event Burton's suffers any Down Time as a direct or indirect result of or in connection with any of the circumstances detailed in condition 14.1, Burton's shall be entitled to charge the Supplier (and the Supplier shall reimburse Burton's in accordance with condition 14.1) a Down Time rate for each hour (or part of an hour) of Down Time caused by such circumstances. The Down Time rate shall be a genuine pre-estimate of the losses suffered by Burton's and shall be calculated by reference to Burton's run-rates for each affected product line.

15 Marking of Goods & Publicity

- 15.1 Unless specified in the Order no maker's name or mark shall appear on any Goods supplied to Burton's.
- 15.2 Neither the Contract nor the name of Burton's shall be disclosed to any third party or used by the Supplier or any sub-contractor for advertising or publicity purposes without Burton's prior written consent.
- 15.3 The Supplier and its employees, agents, or sub-contractors shall not disclose to any person, firm or company any manufacturing process, trade secret, marketing and sales information relating to the business affairs and dealings of Burton's disclosed by Burton's pursuant to the Contract, save that which has come into the public domain through no fault of the Supplier or as may otherwise be required by Applicable Law. This restriction applies during the term of the Contract and at any time thereafter.

16 Sub-Contractors & Assignment

All Contracts are personal to the Supplier and the Supplier shall not without the prior written consent of Burton's sub-contract or assign all or any part of a Contract.

17 Termination

- 17.1 Without prejudice to any other rights or remedies to which it may be entitled, Burton's

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may immediately and without liability terminate the Contract (or any part of it) by written notice in the event that the Supplier:

- (a) undergoes an insolvency event including: (i) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors; or (being a body corporate) (ii) it admits that it is unable to pay its debts or is deemed to be unable to pay its debts as defined in Section 123 of the Insolvency Act 1986; (iii) any steps are taken with a view to renegotiating or compromising in satisfaction of its debts; (iv) any step is taken in relation to its winding up, and (where capable of being set aside) is not set aside within 7 days; (v) any step is taken to appoint a liquidator, administrator, receiver or administrative receiver, or any such officer is appointed, in each case over that party or any of its assets; (vi) any other valid step is taken to enforce any security interest or otherwise enforce any debt in relation to that party or any of its assets; (vii) it ceases or suspends or threatens to cease or suspend all or any material part of its business or payment of any of its debts; or (viii) any step is taken in any jurisdiction that is the same or similar in effect to any of those set out above;
- (b) commits any breach of its obligations under the Contract and fails to rectify such breach (if capable of remedy) within ten (10) days of receipt of written notice from Burton's requiring remedy of the same; or
- (c) fails to perform any of its obligations under the Contract by the date specified on the Order (or within a reasonable time if no date is specified), or Burton's shall receive information which leads it reasonably to believe that the Supplier shall be unable to complete the Contract satisfactorily and on time.

18 Material Adverse Change

18.1 If at any time during the term of the Contract an event occurs which has or is likely to have an Adverse Impact on Burton's, Burton's may:

- (a) require that the other party negotiate an amendment to the contract to alleviate the Adverse Impact; and
- (b) if the parties are unable to agree an amendment, terminate this Contract immediately.

18.2 An Adverse Impact means any one of the following:

- (a) an adverse impact on Burton's ability to perform the Contract in accordance with its terms and the Law;
- (b) a substantial increase in the costs incurred by Burton's in performing the agreement;
- (c) the price of the Goods under this agreement exceeding the market value for similar products;
- (d) an adverse impact on the Customer's ability to sell or commercially exploit the Goods.

For the avoidance of doubt an Adverse Impact may occur through the exit of the United Kingdom from the European Union.

19 Value Added Tax

If the Supplier is registered for VAT it must issue a proper tax invoice in accordance with Applicable Law before Burton's shall be required to make payment for any Goods and/or Services supplied in accordance with the Contract.

20 Data Protection

The parties hereby undertake to comply with the data protection obligations as set out in

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Schedule 2.

21 Consumer Protection Act 1987 ("the Act")

- 21.1 The Supplier warrants that all Goods supplied to Burton's (together with all necessary instructions, information and warnings supplied therewith) will be designed, manufactured and produced in such a manner as to ensure that under no circumstances could the Goods be held to be defective pursuant to Part 1 of the Act.
- 21.2 The Supplier warrants that all Goods supplied to Burton's will conform to the general safety requirements and all orders, regulations and notices imposed by or issued in respect of the Goods pursuant to Part II of the Act.
- 21.3 The Supplier warrants that all Goods supplied to Burton's will pass such inspection as may be required by Burton's or any UK governmental or regulatory body.
- 21.4 The Supplier shall immediately notify Burton's in writing upon becoming aware of any incidents, events or discoveries which are in any way relevant to the safe operation or use of Goods previously supplied to Burton's.
- 21.5 The Supplier undertakes to maintain (with insurers of repute) insurance cover to a level which in the opinion of Burton's is adequate in respect of liability pursuant to the Act and to produce to Burton's forthwith on demand a copy or copies of the relevant policy or policies of insurance.

22 Product Recall & Consumer Complaints

- 22.1 The Supplier shall notify Burton's immediately of any adverse results arising out of analytical, microbiological or other quality or specification checks carried out in respect of the Goods and discovered before or after their delivery.
- 22.2 In the event that at the requirement, instruction, instigation, recommendation or suggestion of any governmental or regulatory body (whether local or national) or a customer of Burton's and/or if in the reasonable opinion of Burton's examination of any of the Goods is required to be undertaken to investigate the fitness for the purpose of such Goods and/or in the reasonable opinion of Burton's the Goods should be withdrawn from sale and/or recalled after sale the Supplier shall immediately provide all assistance required by Burton's in respect of such investigation or recall. Burton's shall handle consumer complaints in the first instance but the Supplier shall nevertheless maintain in force a crisis management procedure to provide to Burton's such assistance as Burton's may request in order to deal with any such complaints.
- 22.3 Burton's shall be entitled to require the Supplier to maintain in force product recall liability insurance for the joint benefit of the Supplier and Burton's in such sum as Burton's may reasonably require. If so requested by Burton's the Supplier shall procure that Burton's interest in such insurance be noted on the policy. Alternatively, Burton's shall be entitled to maintain in force product recall liability insurance for the joint benefit of the Supplier and Burton's in such sum as Burton's shall reasonably require and to re-charge to the Supplier such proportion of the insurance premium as Burton's deems appropriate.

23 Bribery & Corruption

- 23.1 The Supplier shall:
 - (a) not engage in any activity, practice or conduct which is (or might reasonably be supposed to be) an offence under sections 1, 2 or 6 of the Bribery Act 2010 (the "Bribery Act") were it to occur in the United Kingdom or engage in any conduct that it is contrary to anti-bribery or anti-corruption laws or regulations in any part of the world in which the Goods are delivered and/or the Services are performed. In particular, the Supplier shall not offer or agree to give any person working for or engaged by Burton's any gift or other consideration, which could act, directly or indirectly, as an inducement or a reward or otherwise provide to it an advantage (financial or otherwise) for any act or failure to act connected to the Contract, or

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any other agreement between the Supplier and Burton's, including its award to the Supplier and any of the rights and obligations contained within it;

- (b) comply at all times with such reasonable instructions or policies in relation to anti-corruption or anti-bribery provided by Burton's from time to time;
 - (c) maintain and at all times comply with its own business ethics policies and procedures (which shall, as a minimum, satisfy the adequate procedures requirements of the Bribery Act and any relevant industry codes of practice);
 - (d) notify Burton's immediately if it engages a foreign public official (as defined in the Bribery Act) in any capacity, or if such a person acquires any direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract); and
 - (e) within three (3) months of the date of the Contract and annually thereafter certify its compliance with this condition 23 to Burton's in writing.
- 23.2 The Supplier shall not enter into the Contract if it has knowledge or reasonably suspects that, in connection with it, any money has been, or will be, paid or any other advantage will be directly or indirectly provided to any person working for or engaged by Burton's by or for the Supplier, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to Burton's before execution of the Contract.
- 23.3 If the Supplier (including any Supplier employee, sub-contractor or agent, in all cases whether or not acting with the Supplier's knowledge) in any way breaches condition 23.1 or the Bribery Act in relation to the Contract or any other agreement with Burton's, Burton's may terminate the Contract by written notice with immediate effect.
- 23.4 Any termination under condition 23.3 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to Burton's.
- 23.5 Any dispute relating to: (a) the interpretation of conditions 23.1 to 23.4 inclusive; or (b) the amount or value of any gift, consideration or commission, shall be determined by Burton's and the decision shall be final and conclusive.

24 Modern Slavery

24.1 The Supplier shall:

- (a) comply with all Applicable Laws relating to the Modern Slavery Act 2015 ("**Relevant Requirements**");
- (b) not engage in any activity, practice or conduct which would constitute an offence under the Modern Slavery Act 2015 if such activity, practice or conduct had been carried out in the United Kingdom;
- (c) comply with Burton's policies relating to anti-slavery and enforce them where appropriate ("**Relevant Policies**");
- (d) ensure that the Goods and Services are provided:
 - i. without any breach of the Modern Slavery Act 2015 or activity that would constitute a breach of that act if it took place within England and Wales;
 - ii. in accordance with good ethical trading practices and standards; and
 - iii. in a manner reflecting a commitment to safety and human rights in the workplace;
- (e) have and maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Modern Slavery Act 2015, to ensure compliance with the Relevant Requirements, the Relevant

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Policies, and will enforce them where appropriate;

- (f) promptly report to Burton's:
 - i. any breach, or potential breach, of the Relevant Requirements and/or Relevant Policies;
 - ii. any actual or suspected slavery or human trafficking in a supply chain which has any connection with this agreement and/or Burton's; and/or

24.2 The Supplier shall ensure that any person associated with the Supplier who performs services or supplies goods in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 24 ("**Relevant Terms**"). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such person of any of the Relevant Terms.

25 Sedex

The Supplier shall be registered at all times as a (B) member of Sedex with a completed self-assessment questionnaire completed as a condition of trade. Access must be granted to Burton's to review this. The Suppliers shall promptly notify Burton's if they cease to be registered as a (B) member of Sedex and Burton's shall have the rights to cancellation as set out in condition 12.1 above.

26 Social Compliance Policy

The Supplier shall have read and agrees to comply at all times with such reasonable instructions or policies in relation to social compliance as set out at Schedule 1 and as may be provided by Burton's from time to time.

27 Third Party Rights

The Contract is intended and agreed to be solely for the benefit of the parties and their lawful successors and permitted assigns and is not intended to create any right enforceable by any other person and a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Contract.

28 Severability

If a court or other regulatory body finds that any provision of these Conditions and/or the Contract is invalid or unenforceable, the other provisions of these Conditions and/or the Contract and the remainder of the provision in question shall not be affected and shall be construed as if such invalid or unenforceable part did not exist.

29 Waiver

No failure or delay by Burton's 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 preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

30 Communications

Any communications between Burton's and the Supplier about the Contract shall be in writing and delivered to the recipient's last known place of business, fax number or authorised email address (as applicable) as set out on the Order or otherwise notified in writing from time to time by:

Method Time of Effect

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| Hand | Simultaneously with the delivery provided it is delivered between 9am and 5.30pm (UK time) on a working day and otherwise on the next working day. |
| First class post | Two (2) working days following the date of dispatch. |
| Fax | If between 9am and 5.30pm (UK) time on a working day, at the time when in the ordinary course of transmission it would first be received by the recipient and otherwise at 9am (UK time) on the next working day. |
| Email | Provided always that no error (including delivery error) or valid out-of-office email message is received by the sender, the earlier of: (a) acknowledgement of receipt, or in the absence of such acknowledgement, three (3) hours after the time of transmission (as recorded by the sender's email application) save where the time of receipt would fall after 5.30pm on a working day, in which case it shall be deemed received at 9am (UK time) on the next working day; and (b) if sent with "delivery receipt" functionality enabled in the sending party's email application, when a "read receipt" is received. |

31 Governing Law

The formation, existence, construction, performance, validity and all aspects of the Conditions and each Contract (including any non-contractual claims or disputes) shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English Courts

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SCHEDULE 1

SOCIAL POLICIES

Sustainability and Corporate Social Responsibility

Policy

Burton's Biscuit Company is a firm believer in the importance of maintaining socially responsible practices across our operations.

As a leading biscuit manufacturer, we recognise the active role our products have in making people's lives just that bit more exciting – a responsibility we do not take lightly.

Conscious that our actions can have a positive impact, we've adopted a number of best-practice initiatives to ensure our obligations as a business are constantly being met. These cover a wide range of areas, from being a good employer and neighbour, through to ensuring we do our bit by working with other stakeholders to help address issues impacting consumer health and the environment in which we operate – locally and globally.

This ongoing commitment to corporate social responsibility is brought to life through our policies, procedures and working practices as we aim to continue "Making Every Day More of a Treat".

Our Communities

We appreciate we have a significant impact on the communities in which we operate.

We are actively building positive relationships with our local communities and are keen to provide our support to charitable causes and community initiatives, encouraging our employees to get involved and ensuring they are provided with our support in doing so. Company time, resources and more importantly, our passion, is committed to supporting the development of facilities, amenities and projects in our local communities.

Teams recently visited local charities supported by Children in Need to lend a hand, from community centres to kid's clubs, and from understanding how these charities help children in our local community to a bit of DIY!

We also recognise the importance of providing employment advice and opportunities to young people in our communities, and run a successful engineering apprenticeship programme, as well as regularly participate in careers workshops for unemployed people in the area.

Our People

Operating in a working environment which encourages and enables high levels of individual and team performance is critical to our ongoing success. We are committed to employee development and work hard to monitor and improve levels of engagement with our colleagues.

Moreover, the health and well being of our employees is of paramount importance. Going beyond the traditional health and safety agenda, we've also focused on initiatives which help our colleagues lead healthier lifestyles and maintain a sensible work-life balance in order to manage their individual priorities without constraint.

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Our Environment

Doing our part to help safeguard the future of the environment remains a focus for Burton's Biscuit Company, both within the local communities in which we operate and further afield. We recognise that as our business footprint grows, so does our responsibility towards ensuring environmentally sustainable practices are adopted and adhered to.

Sourcing

Burton's Biscuit Company has long recognised the benefits of using ethically and sustainably sourced raw materials. As members of Sedex (Supplier Ethical Data Exchange), we actively monitor the ethical standards to which we, and our suppliers, adhere to.

Burton's Biscuit Company purchases all of its bulk palm oil from sustainable, segregated sources. We have supported the drive towards palm oil sustainability since 2006, when we became a member of the Roundtable on Sustainable Palm Oil (RSPO) and we were also one of the first companies to purchase the initial RSPO certified segregated palm oil in the UK.

We also only source cocoa based products from suppliers that are members of the ICI (International Cocoa Initiative) or the WCF (World Cocoa Foundation). The ICI supports schemes and organisations that are working to eradicate child labour in the cocoa sector and the WCF funds work to ensure the sustainability of the cocoa industry through programmes such as The Sustainable Tree Corps Program and also helps improve the livelihood of cocoa farmers.

Burton's Biscuit Company has also taken the decision to source 100% barn or free range eggs from the beginning of 2012. These non-caged eggs are sourced from suppliers which fully comply with trade regulations and maintain traceable auditing processes for reassurance.

Wherever possible, we actively look to source locally produced ingredients for our products. This not only helps support the local economies in which we operate, but also gives us additional reassurance over the provenance and quality of our ingredients.

Energy efficiency

To help mitigate the impact our business could have on the environment, we actively work with all our partners and other organisations across our supply chain to minimise our collective impact by adopting actionable and achievable targets to reduce carbon emissions and trim our use of resources such as water and energy.

Waste and recycling

Burton's Biscuit Company is continuously working to reduce the environmental impact of the packaging materials we use for our products. By working closely with our suppliers, WRAP and actively supporting the Courtauld 3 agreement, we are respecting our commitment to reducing waste and using sustainable packaging materials where practicable. We're also making strides towards achieving our zero waste to landfill objectives.

Our Consumers

As a leading biscuit manufacturer, we are committed to providing high quality treat products that excite and delight consumers, whilst being enjoyed as part of a balanced diet. We are focused on ensuring we are ethical and responsible in all that we do and are proud signatories

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of the government's [Public Health Responsibility Deal](#).

As part of these commitments we have worked hard to remove all hydrogenated fats from our entire range over six years ago.

We are dedicated to testing and launching more portion control packs across our Power Brands and reviewing our recipe reformulation to reduce calories and saturated fat where possible. In fact, the majority of our product portions now under 150 kcal.

We want consumers to be able to make informed decisions about what they eat and therefore provide nutritional and portion size information both on our product packs and on [this website](#).

Burton's remains committed to its Responsibility Deal commitments and continues to innovate throughout the business to proactively meet its commitments across its product portfolio.

Our Commitments

The Responsibility Deal

As a leading biscuit manufacturer, we are committed to providing high quality treat products that excite and delight consumers, whilst being enjoyed as part of a balanced diet. We are focused on ensuring we are ethical and responsible in all that we do and are proud signatories of the government's Public Health Responsibility Deal.

We have signed the following pledges:

- Salt Reduction
- Non-use of Artificial Trans Fat
- Calorie Reduction
- Saturated Fat Reduction

Marketing

An ethical and responsible approach to the marketing of our products underpins all of our communications. Burton's Biscuit Company is also a signatory of the Advertising Association's UK Brand Ambassador and Peer-to-Peer Marketing Pledge, and we only work with suppliers which adhere to industry codes and standards, as well as legal regulations.

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SCHEDULE 2

DATA PROTECTION

1. Each term used in this Schedule shall have the meaning given in the Data Protection Laws unless otherwise stated. References to "Articles" in this Schedule shall mean the Articles of the GDPR.
2. The Supplier acknowledges and agrees that for the purposes of this Contract Burton's is the Data Controller and the Supplier is a Data Processor in respect of all Personal Data processed pursuant to this Contract.
3. The Supplier warrants and represents that it shall, and shall procure that the Supplier's Personnel, process Personal Data only for the purpose of performing the Data Processing Services during the term of this Contract on written instructions that Burton's may give to the Supplier from time to time and in compliance with the Data Protection Laws.
4. The Supplier warrants and represents that it shall:
 - 4.1 not do anything that would put Burton's in breach of the Data Protection Laws;
 - 4.2 put in place before undertaking any processing and maintain appropriate technical and organisational measures in accordance with Articles 5 and 32;
 - 4.3 provide Burton's with such assistance as Burton's requires to ensure compliance with Articles 32 to 36 (inclusive), taking into account the nature of the processing and the information available to the Supplier;
 - 4.4 maintain a written record of all of its processing activities under or in connection with this Contract and of the measures implemented under this Schedule as set out in Article 30(2) and make such record available to the relevant Supervisory Authority;
 - 4.5 provide Burton's promptly (and in any event within five days) with such information as Burton's requests from time to time to enable Burton's to satisfy itself that the Supplier is complying with its obligations under this Schedule;
 - 4.6 permit and/or shall procure that Burton's shall be permitted access promptly, and in any event within five days of Burton's request, to such premises and/or locations, facilities, Supplier's Personnel, systems, records, books, accounts and information as may reasonably be required by Burton's;
 - 4.7 during the term of the Contract and for a period of 6 years following termination or expiry of the Contract, allow Burton's, its agents, representatives and external auditors access (on reasonable notice and during normal business hours) to its premises and/or any other location where Personal Data is processed under this Contract to allow Burton's to audit the Supplier's compliance with this Schedule.
 - 4.8 not cause or allow Personal Data to be transferred to and/or otherwise processed in a Non-adequate Country without Burton's prior written approval;
 - 4.9 not transmit Personal Data to, or permit the processing of Personal Data by, any third party (for the avoidance of doubt including without limitation its Group Companies) save to the Supplier's employees, except:

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4.9.1 with Burton's prior written consent in each case (such consent to be given or withheld at Burton's absolute discretion); and

4.9.2 where Burton's has given such consent, the Supplier has entered into a written contract with that third party under which that third party agrees to obligations that are equivalent to the Supplier's obligations set out in this Schedule,

unless required to do so by Applicable Law, in which case the Supplier shall (to the extent permitted by Applicable Law) give Burton's prior written notice of such requirement.

4.10 at any time upon request, and in any event upon termination or expiry of this Contract, deliver up to Burton's or (at Burton's choice) securely delete or destroy all Personal Data in the Supplier's possession (except for such Personal Data which the Supplier is required to keep in compliance with Data Protection Laws);

4.11 provide all assistance requested by Burton's from time to time in undertaking any data protection impact assessments and consultation with a Supervisory Authority that Burton's undertakes to comply with Article 35 or 36 (as applicable) of GDPR; and

4.12 ensure the Supplier's Personnel are subject to binding obligations of confidentiality in respect of Personal Data processed under this Contract.

5. The Supplier shall assist Burton's by using appropriate technical and organisational measures to comply with its obligations to fulfil Data Subjects' rights under Data Protection Laws, including co-operating with Burton's in respect of:

5.1 responding to requests or queries from Data Subjects in respect of their Personal Data (including without limitation the provision of Portable Copies);

5.2 cooperating with an investigation in connection with the Personal Data by a regulatory body (including without limitation a Supervisory Authority); or

5.3 reconstructing and/or otherwise safeguarding the Personal Data,

within any reasonable timescales specified by Burton's.

6. If the Supplier becomes aware of or suspects a Personal Data Breach it shall notify Burton's without undue delay and in any event within 24 hours, providing all the information set out in Article 33 and/or as requested by Burton's. The Supplier shall at its own cost provide all assistance reasonably requested by Burton's to ensure that Burton's complies with its obligations under Articles 33 and 34. The Supplier shall take all reasonable steps to mitigate any risks of a Personal Data Breach occurring in the future.

7. If for any reason the Supplier is unable to provide any of the information set out in Article 33 within the timescale referred to in Schedule, it shall provide a written explanation to Burton's and use all reasonable endeavours to provide all such information as soon as possible and in any event within 72 hours.

8. The Supplier shall not disclose any information about or in connection with any Personal Data Breach, other than:

8.1 to Burton's;

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- 8.2 with Burton's express prior written approval; or
- 8.3 as required to be disclosed by Applicable Law.
9. The Supplier shall procure that all Supplier's Personnel, Group Companies and any sub-processors who have access to Personal Data in connection with this Contract comply with Data Protection Laws and the terms of this Schedule and the Supplier shall be liable for all acts and omissions of the Supplier's Personnel, Group Companies and sub-processors.
10. The Supplier warrants that from 25th May 2018, it shall where applicable comply with its obligations to appoint and maintain in place throughout the Term a data protection officer as required by Articles 37, 38 and 39 and it shall designate a representative in the European Union where required by Articles 3(2) and 27 and ensure that its representative complies with clauses 4.4, 4.6 and 5.2.
11. The Supplier shall indemnify Burton's against all reasonable liabilities, costs, expenses, damages and losses suffered or incurred by Burton's arising out of or in connection with any breach by the Supplier of the terms of this Schedule including any negligent or reckless act, omission or default in the provision of the Data Processing Services, save to the extent (if any) to which any breach is caused directly by compliance with Burton's instructions.
12. For the purpose of this Schedule the following definitions apply:

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| "Adequacy Decision" | a finding under Article 25(2) of the Data Protection Directive that a country or territory ensures an adequate level of protection within the meaning of Article 25 of the Data Protection Directive or (as applicable) a finding under Article 45(1) of the General Data Protection Regulation that a country, a territory or one or more specified sectors within that country, or the international organisation in question ensures an adequate level of protection within the meaning of Article 45 of the General Data Protection Regulation; |
| "Applicable Law" | in England any jurisdiction in which the Services are to be performed/the Goods are to be supplied under this Contract any and all applicable laws, regulations and industry standards or guidance (including without limitation any applicable British Standard) and any applicable and binding judgment of a relevant court of law; |
| "Data Controller" | has the meaning given in the Data Protection Act 1998 or (as applicable) has the meaning given to "controller" in the General Data Protection Regulation; |
| "Data Processing Services" | the services described in Appendix 1; |
| "Data Processor" | has the meaning given in the Data Protection Act 1998 or (as applicable) has the meaning given to "processor" in the General Data Protection Regulation; |
| "Data Protection Directive" | Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data; |
| "Data Protection Laws" | GDPR, any relevant law implementing GDPR and the E Privacy Directive; |
| "E Privacy Directive" | Directive 2002/58/EC as amended by Directive 2009/136/EC; |
| "GDPR" | Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data |

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| "Non-adequate Country" | and on the free movement of such data; a country or territory which is outside the European Union and in respect of which there has not been an Adequacy Decision. For the purposes of this Contract, "Non-adequate Country" includes the United States of America; |
| "Portable Copy" | a copy of Personal Data in such form as to enable Burton's to comply with its obligations under Article 20 of the General Data Protection Regulation; and |
| "Supplier's Personnel" | the Supplier's officers, employees, agents, subcontractors and other workers. |

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APPENDIX 1

DATA PROCESSING

1. **THE SUBJECT-MATTER** - The processing of Personal Data carried out by the supplier shall be done in the context of the Supplier's adherence to its obligations under this Agreement.
2. **TERM** – The Supplier shall process Personal data for the term of this Agreement unless terminated earlier or agreed otherwise in writing.
3. **THE NATURE AND PURPOSE OF THE PROCESSING**; The Supplier shall process Personal Data as is necessary to adhere to its obligations pursuant to the Agreement or as further instructed by Burton's.
4. **THE TYPE OF PERSONAL DATA**; First and Last Name, title, position, Contact Information (email, phone and physical business address)
5. **THE CATEGORIES OF DATA SUBJECTS**. Employees; Agents; Advisors.

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