



KELLOGG COMPANY OF SOUTH AFRICA (PTY) LTD CONDITIONS OF SALE ("CONDITIONS OF SALE")

- 1.1 These general conditions of sale (these "**Conditions**") apply to all sales of products made directly by Kellanova Company of South Africa (Pty) Limited ("**Kellanova**") to the Customer as defined in **Annexure A** to these Conditions.
- 1.2 Any terms and conditions contained in a purchase order or other documentation issued by the Customer which differ from or add to these Conditions are rejected by Kellanova.
- 1.3 Any other terms and conditions (a) implied by a course of dealing, custom or practice or (b) which the Customer seeks to incorporate, shall not apply.
- 1.4 Except as otherwise provided in writing between the parties, these Conditions supersede all previous understandings and constitute the entire agreement between the parties with respect to the sale of products from Kellanova to the Customer.
- 1.5 No modification, deletion or addition to these Conditions shall be binding on Kellanova unless expressly approved in writing by Kellanova.

2 Orders

- 2.1 An Order is deemed an offer by the Customer to purchase products from Kellanova in accordance with these Conditions.
- 2.2 No Order is binding upon Kellanova until the earlier of (a) acceptance of such Order by Kellanova in writing or electronically or (b) shipment by Kellanova of the products contained in such Order to the Customer.
- 2.3 No Order accepted by Kellanova can be cancelled by the Customer without Kellanova's written consent.
- 2.2 Kellanova reserves the right to accept or reject any Order in its absolute discretion.

3 Minimum Orders

- 3.1 Each order must be at least the minimum number of cases as communicated from Kellanova from time to time.
- 3.2 Kellanova reserves the right to change its minimum order quantities and other customer criteria at any time in its absolute discretion.
- 3.3 Any trading terms signed is subject to these Conditions of Sale, as amended from time to time. Kellanova reserves the right to update these Conditions at its sole discretion, and the latest version shall apply to all Orders placed after such updates.

4 Price

- 4.1 The price of the products is the price set out in Kellanova's standard price list as of the date an Order is processed by Kellanova less any applicable discounts agreed upon in writing.
- 4.2 The price of the products shall include the cost of delivery to the Customer but shall not include (a) the cost of off-loading, (b) any value added tax or (c) any other applicable sales tax which will be charged at the then applicable rate.
- 4.3 Kellanova's standard price list shall not be construed or operate as an offer by, or obligation of, Kellanova to sell the products to the Customer.
- 4.4 Kellanova reserves the right to change its list price for any SKU at any time in its absolute discretion.
- 4.5 In no event shall a reduction in Kellanova's list price be retroactive.
- 4.6 Orders received on or after the effective date of a list price change which do not reflect the price change will not be processed.

5 Invoicing and Payment

- 5.1 Kellanova will invoice the Customer for products when the Order



is processed.

- 5.2 The Customer must pay invoices in full in cleared funds to Kellanova's designated bank account prior to delivery of the products or in accordance with the payment terms agreed upon between the parties stipulated in **Annexure A** to these Conditions.
- 5.3 Payment shall be considered received by Kellanova on the date that cash or an electronic funds transfer is received at Kellanova's designated bank.
- 5.4 The Customer shall not deduct or apply any settlement discounts unless expressly agreed to in writing by Kellanova. Any unauthorized deduction of settlement discounts shall be deemed a breach of these Conditions.
- 5.5 Kellanova reserves the right to offset without notice any unauthorized settlement discounts taken by the Customer against any amounts due to the Customer, including but not limited to trade discounts, promotional allowances, or credit notes.
- 5.6 In the event that the Customer repeatedly applies unauthorized settlement discounts, Kellanova may, upon written notice, suspend or revoke any settlement discount arrangements previously granted to the Customer, in whole or in part, at its sole discretion.
- 5.7 If the Customer has not settled all amounts owing in full within 30 days after the due date, then no rebates shall be payable to the Customer in respect of that period.

6 Credit

- 6.1 Kellanova will consider an application for credit upon receipt of a formal written request from the Customer.
- 6.2 Kellanova reserves the right at any time to grant, remove or modify its credit terms with the Customer in its absolute discretion.
- 6.3 The Customer must stay within its approved credit limits. In addition to all other available remedies, Kellanova reserves the right to cease processing Orders if the Customer exceeds its approved

credit limit.

- 6.4 Any payment terms granted to the Customer by Kellanova must, prior to shipment of the products, be secured by a bank guarantee or by an irrevocable letter of credit issued or confirmed by an international bank acceptable to Kellanova. All charges in connection with such bank guarantee or the issuance and confirmation of such letter of credit shall be paid by the Customer.

7 Charges

- 7.1 All penalty fees and/or charges assessed by the Customer that have not been agreed upon in writing by Kellanova must be reimbursed to Kellanova.
- 7.2 Kellanova reserves the right to (a) offset any such unauthorized penalty fees and/or charges, which may include but not be limited to, deducting from the Customer's Kellanova merchandising fund or discounting from any credit note subsequently issued to such customer, or (b) halt shipments to the Customer until such penalty fees and/or charges are repaid.

8 Delivery

- 8.1 Kellanova shall, in South Africa, deliver, or arrange for delivery of, the products to the Customer's premises or a mutually agreed upon location. At no time shall Kellanova be deemed to be a common carrier.
- 8.2 Any time or date specified for delivery is an estimate only and time is not of the essence for delivery of the products.
- 8.3 Kellanova may make delivery of the products in installments.
- 8.4 The Customer must inspect the products upon delivery. Any claim that the products are damaged or that there is a defect in delivery must be made as per clause 10.

9 Title and Risk

- 9.1 Title to the products and risk of loss of the products passes to



the Customer upon delivery of the products to the carrier.

- 9.2 In the event of a payment default by the Customer, Kellanova may enter the Customer's premises and repossess the products.

10 Damage stock process

- 10.1 The Customer must check all products delivered against the invoice or delivery document. Should the products be damaged en route or in transit to the Customer, the Customer must endorse the damages on the POD and claims need to be submitted within 48 hours of delivering taking place.

- 10.2 The Customer has 30 business days from date of delivery to return the products, provided that the products are in the same condition they were when delivered to the Customer which deems the stock as resalable.

- 10.3 Kellanova will no longer accept returns on dated products in trade, hence expired stock cannot be returned for credit after the delivery has been accepted and the stock has been delivered within the agreed shelf life.

- 10.4 Kellanova will not accept any returns on damaged or non-resalable products from trade unless it was delivered damaged.

11 Product Recall

- 11.1 If the Customer is the subject of a request, court order or other directive of a court or other governmental or regulatory authority to withdraw any Kellanova products from the market (a "Recall Notice"), the Customer shall, within twenty-four (24) hours following its receipt of a Recall Notice, provide Kellanova with a copy of such Recall Notice.

- 11.2 Unless required by law, the Customer may not undertake any recall or withdrawal of Kellanova products without the written permission of Kellanova.

- 11.3 In the event that the Customer undertakes a recall or withdrawal of

Kellanova products, the Customer shall comply with Kellanova's instructions on implementing such recall or withdrawal.

- 11.4 Kellanova shall have sole responsibility for paying the cost of any product recall or withdrawal, except when such product recall or withdrawal results from any action, omission or inaction by the Customer, in which case the Customer shall bear such cost.

12 Intellectual Property Rights

- 12.1 The Customer may not alter any trademark or marking on the products.

- 12.2 The Customer has no right, title or interest in any trademark, trade name or symbol, or any translation thereof, which is applied to or used in relation to the products.

13 Warranty Exclusion

Except as (1) required by applicable law, (2) expressly set forth in these conditions or (3) specifically provided to the customer by Kellanova in writing, Kellanova disclaims and excludes all warranties and terms and conditions not contained in these conditions, express or implied, to the fullest extent permitted by law and specifically disclaims, without limitation, all implied warranties and non-infringement.

14 Limitation of liability

In no event shall Kellanova be liable to the customer, whether as a result of breach of contract, warranty, delict (including negligence), failure of a remedy to accomplish its purpose or otherwise, for special, exemplary, punitive, indirect, incidental or consequential damages, including, but not limited to, loss of profits (whether direct or indirect), loss of use of the products, damage to associated equipment, recall costs, downtime, cost of substitute equipment or products or claims by the customer's buyers for such damages. Nothing contained in this clause limits or excludes liability for death, personal injury or any liability that cannot be excluded by law.



15 Compliance with laws and policies

15.1 The Customer shall comply with:

15.1.1 all applicable laws, rules, regulations and licenses issued by any national, governmental or other authority in relation to the subject matter of these Conditions including, without limitation: the Foodstuffs, Cosmetics and Disinfectants Act, Act 54 of 1972 (and all Regulations issued pursuant to this Act); the Consumer Protection Act, Act 68 of 2008; the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004; the Competition Act, Act 89 of 1998; the U.S. Foreign Corrupt Practices Act; the U.K. Bribery Act 2010, and any other applicable anti-corruption laws, rules or conventions; and

15.1.2 Kellanova's Global Code of Ethics, Kellanova's FCPA and Anti-Bribery Policy, Kellanova's Returns Policy and any other policy communicated by Kellanova to the Customer, as amended from time to time.

15.2 Kellanova may immediately cease processing Orders and terminate its commercial relationship with the Customer as a result of any breach of Clause 14.1.

16 Indemnity

16.1 The Customer shall indemnify and hold harmless Kellanova and its Affiliates and their respective officers, directors and employees for all costs and expenses arising out of any claim for:

16.1.1 personal injuries or death sustained by any person;

16.1.2 damage to property, including loss of use;

to the extent caused by the Customer's employees, agents or subcontractors or arising out of (a) their handling, storage,

transportation or placement of the products or (b) the use of any premises owned or controlled by the Customer.

17 Force majeure

Kellanova will be excused from performance and will not be liable for any failure or delay in performing its obligations under the contract between Kellanova and the Customer where such failure or delay was caused by an event or series of events beyond Kellanova's reasonable control (irrespective of foreseeability), including, without limitation, acts of government, war, hostilities or threat of war, terrorism, labor difficulties, a delay in delivery from suppliers, commercial impracticality, shortages of energy, materials, labor, or equipment, fire, flood, storm, explosion, epidemic, pandemic, riot, civil commotion, or an act of God.

18 Cancellation

18.1 Kellanova may immediately cancel any Order if the Customer:

18.1.1 fails to make payment when due; or

18.1.2 is insolvent, ceases, threatens to cease business or goes into Business Rescue.

Such cancellation shall be without prejudice to any other right or remedy available to Kellanova.

19 Insurance of Products

19.1 Commencing at the time the products are delivered to the Customer's warehouse, the Customer must insure all products, at its own cost, with a reputable insurance company. The Customer shall maintain sufficient product liability insurance in the amount and produce, upon Kellanova's request, details of such insurance and a receipt for the appropriate premium.

20 Confidentiality

The Customer shall keep in confidence and not disclose to any third party or use for any purpose except as provided herein, any and all of Kellanova's confidential and proprietary information.



The foregoing use and confidentiality restrictions shall not apply to information that is or becomes publicly available through no fault of the Customer or in the event that disclosure is necessary in order to comply with applicable laws, regulations or court orders.

21 Remedies

Any rights or remedies arising under these Conditions are cumulative and do not exclude any rights or remedies provided by law.

22 Assignment

22.1 The Customer may not assign, charge or delegate its rights or obligations under these Conditions without the prior written consent of Kellanova.

22.2 Kellanova may assign, charge or delegate its rights and obligations under these Conditions to any company which from time to time is part of the group of companies of which Kellanova Company is the ultimate parent company.

23 Waiver

23.1 To be effective, a waiver of any right or remedy must be in writing. Any failure by Kellanova to exercise any right or remedy will not operate as a waiver of such right or remedy or any other right or remedy. A single or partial exercise of any right will not prevent any other or further exercise of such right or any other right.

24 Relationship

Kellanova and the Customer are independent businesses. No partnership, joint venture, agency, trust or relationship of employer/employee is created between them.

25 Dispute resolution

25.1 If a dispute (whether contractual or non-contractual) arises out of or

in connection with these Conditions (each, a “Dispute”), the parties will attempt to settle such Dispute through good faith negotiations between their appropriate executives.

25.2 If such executives cannot resolve the Dispute, the parties may refer the Dispute to mediation by a mediator jointly selected by the parties.

25.3 If the Dispute is not settled by mediation within fourteen (14) days following the commencement of mediation, the Dispute shall be settled exclusively by final and binding arbitration pursuant to the Arbitration Foundation of South Africa (“AFSA”) (the “Rules”) as follows:

25.3.1 The arbitration panel (the “Panel”) shall consist of a single arbitrator;

25.3.2 The place of arbitration shall be in South Africa and the proceedings shall be held in Sandton;

25.3.3 The award of the Panel shall be final and judgment upon such award may be entered in any competent court;

25.3.4 Neither party shall, and each shall ensure that none of their Affiliates shall, disclose the existence, content or results of any arbitration under this clause.

25.4 Kellanova or the Customer may seek interim or provisional relief or measures in any applicable courts that may be necessary to protect the rights of such party or their affiliate pending the establishment of the Panel or pending the decision of the Panel.

26 Governing Law and Venue

26.1 These Conditions and any Dispute shall be governed by the laws of the Republic of South Africa without giving effect to any choice of law or conflict of law principles.

26.2 The parties irrevocably submit to the jurisdiction of the courts of the Republic of South Africa.



26.3 The parties exclude the application of any international statutes on the sale of goods including the United Nations Convention for the Sale of Goods.

27 Definitions

27.1 The following definitions apply:

Affiliate: means, in the case of Kellanova, any company which, from time to time, forms part of the Kellanova Company group of companies and, in the case of the Customer, any company which, from time to time, forms part of the Kellanova group of companies, respectively.

Order: the Customer's order addressed to Kellanova for the supply of products in accordance with these Conditions.

28 Electronic Transactions

28.1 The Parties agree that this agreement and any related documents may be executed and transmitted electronically. Electronic Signatures shall have the same legal effect as original signatures.

29 Data Protection

29.1 The Customer shall comply with all applicable data protection laws, including the Protection of Personal Information Act, 2013, and shall ensure that any personal information shared with Kellanova is lawfully obtained and processed.