



a2 Nutritionals NZ Limited

General Terms & Conditions of Purchase

1. INTERPRETATION

1.1 Definitions: In this Agreement:

a2NNZ means a2 Nutritionals NZ Limited;

Agreement means these General Terms and Conditions, including the Appendices, as amended by a2NNZ from time to time;

Appendices means appendices attached to this Agreement or provided to the Supplier by a2NNZ from time to time, including:

- (a) Sustainability Principles;
- (b) Crisis Management Minimum Requirements; and
- (c) Governance Policy;

Business Day means a day other than a Saturday, Sunday or public holiday in Auckland, New Zealand;

Delivery Date means the date and, if specified, the time for delivery of Products and/or Services to a2NNZ, specified in the relevant Purchase Order or otherwise notified to the Supplier by a2NNZ;

Delivery Point means the delivery address specified in the Purchase Order or otherwise notified to the Supplier by a2NNZ;

Force Majeure Event means an event or circumstance beyond the reasonable control of either party that makes it impossible or illegal for that party to perform, or prevents compliance with or the performance of, that party's obligations under this Agreement, caused by:

- (a) acts of God, fires, floods, storms and earthquakes; or
- (b) strikes or lockouts (other than of its own workforce) and riots, explosions, insurrection or war, governmental action, epidemics or disease; or
- (c) any other cause of the kind specifically stated above, but does not include:
 - (d) transport problems, raw materials shortage, labour shortage, plant breakdown, breach of contract by third parties contracted by the Supplier, stagnation in the Supplier's business or lack of funds;
 - (e) an event if the effect of that event could have been substantially prevented, avoided or overcome or mitigated by implementing any business continuity, disaster recovery or contingency plan agreed between the parties or that a party has represented it has in place, exercising a reasonable standard of care or using information provided by the other party or that is available in the public domain; or
 - (f) an event that the party affected caused or to which it contributed;

GST means goods and services tax payable on supplies in accordance with the Goods and Services Tax Act 1985;

Insolvency Event means in respect of a party (other than for the purpose of solvent reconstruction or amalgamation):

- (a) a receiver, receiver and manager, liquidator, provisions liquidator, trustee, administrator, controller, inspector appointed under any companies or securities legislation, or similar official is appointed in respect of that party or any of its property, or any security over any substantial part of its assets is enforced; or
- (b) the party ceases to carry on all or substantially all of its business, is unable to pay its debts when due, or is deemed unable to pay its debts under any law, or makes an assignment for the benefit of, or enters into or makes any arrangement or compromise with, that party's creditors or threatens to do so, or stops payments to its creditors generally; or
- (c) the party is, becomes, or is deemed to be insolvent or bankrupt; or
- (d) a distress, attachment or other execution is levied or enforced upon or commenced against any substantial part of its assets and is not stayed within 14 days; or
- (e) anything having a similar effect to any of the events specified above happens under the law of any applicable jurisdiction; or
- (f) in the event that the party is an individual, anything having a similar effect to any of the events specified above happens in respect of that individual;

Intellectual Property means any patent, copyright, design right, database right, topography right, trade mark, service mark, name, domain name, logo, application to register any of the aforementioned rights or materials in which they may subsist, know-how, rights of confidence and any other intellectual property or industrial property right of any nature whatsoever in any part of the world, whether or not registered or capable of

registration or existing now or in the future, including customer lists, specifications, formula, blueprints, dies, casts, moulds and processes;

Liquidated Damages has the meaning given to it in clause 4.8;

Loss means any and all loss (including indirect or consequential loss, loss of profit and loss of reputation), damages, costs, claims, demand proceedings, expenses, penalties, legal and other professional fees and costs, and/or liability, however it arises (including as a result of negligence);

Price means the price for the Products and/or the Services specified in the Purchase Order or otherwise agreed in writing by a2NNZ;

Products means products supplied by the Supplier to a2NNZ pursuant to a Purchase Order from time to time, including raw materials, end products and any packaging and/or documents;

Purchase Order means a purchase order for Products or Services submitted by a2NNZ to the Supplier in writing and accepted by the Supplier or deemed to have been accepted by the Supplier in accordance with clause 3;

Related Company has the same meaning as in section 2(3) of the Companies Act 1993, read as if the expression "company" in that subsection included any body corporate of any jurisdiction;

Representative means, in respect of a party, its directors, officers, employees, agents, advisors and sub-contractors;

Services means services provided by the Supplier to a2NNZ pursuant to a Purchase Order from time to time and including services supplied by the Supplier in connection with the supply of Products or standalone services;

Specifications means the specifications for Products and/or the Services set out in the relevant Purchase Order or otherwise notified to the Supplier by a2NNZ, including, as applicable, Product composition, characteristics, production method and artwork; and

Supplier means the supplier identified in the signature block below, or any Related Company or other associate of the supplier identified in the signature block below who supplies Products and/or Services on behalf of that supplier.

1.2 Priority: If there is any inconsistency between the documents making up this Agreement, to the extent of the inconsistency, these General Terms and Conditions of Purchase of Goods (including the Appendices) shall prevail over the relevant Purchase Order, unless the relevant term of the Purchase Order is expressly stated to override the contradictory term in these General Terms and Conditions of Purchase of Goods.

2. PURCHASE ORDERS

2.1 Purchase Orders: a2NNZ may place orders for Products and/or Services from time to time by submitting a Purchase Order to the Supplier. Unless the Supplier notifies a2NNZ in writing within two Business Days of receipt of the Purchase Order that it cannot supply the Products and/or Services specified in the Purchase Order, the Supplier is deemed to have accepted the Purchase Order.

2.2 Reference: Each Purchase Order issued by a2NNZ must have a unique Purchase Order reference, and all correspondence from the Supplier in relation to a Purchase Order must refer to the relevant Purchase Order reference.

3. PRICE AND PAYMENT

3.1 Payment of Price: a2NNZ will pay the Price for the Products and/or Services. Subject to clause 3.7, the Price is fixed and firm.

3.2 Basis of Price: All Prices are exclusive of GST but otherwise include all costs, taxes or duties imposed on or in relation to the Products and/or Services, and the cost of freight, delivery and insurance to, and unloading at, the Delivery Point. The Supplier is not entitled to any other payments or reimbursements in respect of the Products and/or Services.

3.3 Adjustment to Prices:

The Supplier is not entitled to vary the Prices, including as a result of fluctuations in rates of exchange.

Where the Supplier fails to deliver any Product and/or Services by its Delivery Date, the parties agree that the Prices for such late Products and/or Services will be reduced by two per cent of the Price of the relevant Products and/or Services per calendar day of delay (rounded to the nearest full calendar day), with the price reduction capped at a maximum of 10 per cent of the Price of the delayed Products and/or Services.

3.4 Payment terms: The Supplier will submit valid tax invoices to a2NNZ by the last day of the month in which the Products and/or Services specified in such invoice were supplied. Subject to this clause 3.4 and clause 3.5, in the absence of a genuine dispute, a2NNZ will pay invoices within 90 calendar days plus two Business Days following the end of the month in which the invoice was received. If a2NNZ is unable to match the tax invoice to a valid Purchase Order or where there is a discrepancy in a tax invoice between the Services, Product, prices and/or quantities a2NNZ has received and the Purchase Order, a2NNZ will, within ten working days of receipt of the invoice, notify the Supplier of the discrepancy or a2NNZ's reason for disputing the invoice.

3.5 Requirements for payment: a2NNZ's payment obligations are subject to:

- (a) the Supplier submitting invoices in a format and with such supporting information as a2NNZ requires (which includes, at a minimum, specifying the relevant Purchase Order number, the Supplier's GST number and the bank account for payment); and
- (b) all Products and/or Services set out in the invoice having been ordered pursuant to a Purchase Order and received and receipted by a2NNZ. If requested by a2NNZ, the Supplier must provide a2NNZ with evidence of delivery of Products with a delivery receipt signed by an authorised a2NNZ representative.

If the Supplier fails to fulfil any of its obligations under this Agreement, including its obligation to provide a certificate of insurance under clause 10.2, a2NNZ may suspend payment to the Supplier until those obligations are fulfilled.

3.6 Deductions: a2NNZ may deduct or withhold from any amount that it owes to the Supplier, whether under this Agreement or otherwise, an amount equal to the aggregate of:

- (a) any payment made to the Supplier in excess of what was due and payable to the Supplier under this Agreement at the time of payment; and
- (b) any amount payable by the Supplier to a2NNZ, and any amount claimed by a2NNZ from the Supplier, whether under this Agreement or otherwise.

3.7 Price review:

(a) The Supplier represents and warrants that Prices for the Products and/or Services will be no less favourable than those that the Supplier offers to any other customer for the same or similar Products (for similar quantities) or for the same or similar Services during the period of the relevant Purchase Order.

(b) If the Supplier offers to another customer the same or similar Products or the same or similar Services (for similar quantities) at a lower price than that offered to a2NNZ, the Supplier must, to the extent permitted by law, immediately reduce the Price in order to comply with clause 3.7(a) and promptly credit a2NNZ for the difference between the Price for all sales of those Products and/or Services to a2NNZ for the period during which the Supplier was supplying any third party at a lower price.

(c) a2NNZ may at any time undertake price benchmarking to ensure that Prices are market competitive. If, following any benchmarking exercise, a2NNZ notifies the Supplier that a2NNZ is able to purchase Products and/or Services that are substantially similar to or the same as any Products and/or Services to be supplied under a Purchase Order, at prices that are lower than the Prices payable by a2NNZ under a Purchase Order, a2NNZ will give the Supplier the opportunity to price match within 10 days of the notice, failing which a2NNZ may cancel the relevant Purchase Order (at no cost to a2NNZ) or the entire Agreement.

(d) The Supplier must notify a2NNZ of an impending price change at least 90 consecutive days prior to the requested effective date. Sending the communication does not deem acceptance or receipt by a2NNZ.

4. DELIVERY AND TITLE

4.1 Delivery Date and Delivery Point:

(a) The Supplier must deliver the Products to the Delivery Point by the Delivery Date. Unless otherwise agreed in writing, the Supplier will deliver in full all Products ordered under each completed Purchase Order. a2NNZ will only accept back orders or split shipments in exceptional circumstances that require a2NNZ's prior approval.

(b) The Supplier must deliver the Services by the Delivery Date.

(c) a2NNZ may alter the Delivery Date or Delivery Point upon written notice to the Supplier at any time prior to delivery. Where the Delivery Date is brought forward by a2NNZ and/or the Delivery Point is changed:

- (i) the Supplier will use its reasonable endeavours to meet the altered Delivery Date, and in any event will use its reasonable endeavours to deliver the Products and/or Services within the shortest possible lead time; and
- (ii) a2NNZ will reimburse the Supplier for any additional costs reasonably and actually incurred by the Supplier in order to comply with the altered Delivery Date and/or Delivery Point, provided that such additional costs have been approved in advance in writing by a2NNZ (acting reasonably)

and the relevant Products are delivered or relevant Services provided by the altered Delivery Date and/or at the altered Delivery Point.

4.2 Unloading and time of delivery: It is the responsibility of the Supplier to immediately unload the Product, or to arrange for a suitable means of unloading of the Product, from the relevant delivery vehicle at the Delivery Point (at the cost of the Supplier). Delivery of Products will be deemed to occur when they are delivered to and unloaded at the Delivery Point and a delivery receipt is signed by an authorised representative of a2NNZ. The Supplier shall be liable for any damage caused by its personnel or the personnel of its subcontractors or by its material or equipment suffered by a2NNZ or any third party.

4.3 International delivery: Unless otherwise agreed between the parties, where the Products under a particular Purchase Order are shipping to the Delivery Point from a destination outside of New Zealand, the Products will be delivered to a2NNZ by the Supplier on a Delivered Duty Paid (DDP) basis (Incoterms, 2010) to the Delivery Point.

4.4 Acceptance of delivery: Signing of the delivery receipt or payment of invoices will not imply a2NNZ's acceptance of the delivered Products or a waiver of any claim by a2NNZ.

4.5 Accompanying information: The Supplier shall supply a2NNZ with detailed blueprints, drawings, instructions, descriptions, calculations, control certificates and certificates of conformity or analysis, and any other required documents relating to the Products and/or Services at the time of delivery or at the time of performance (as applicable). The delivery documents will specify Product batch numbers and expiry dates where relevant.

4.6 Loss or damage during transport: In case of loss or damage during transport, the Supplier shall take immediate actions to replace the Products, at the Supplier's cost. The Supplier shall also be liable for the consequences of defective packaging.

4.7 Delay: Time is of the essence for delivery of Products and/or Services. The Supplier must promptly notify a2NNZ in writing if it becomes aware of any actual or likely delay in delivery, stating the reason and consequences of the delay, in addition to measures it will take to limit the delay and prevent any further delays in the future. a2NNZ may inform the Supplier whether the proposed measures are acceptable to a2NNZ.

4.8 Liquidated damages:

(a) If the Products are not delivered to the Delivery Point by the Delivery Date or the Services are not delivered by the Delivery Date, the Supplier will pay to a2NNZ liquidated damages calculated in accordance with the relevant Purchase Order (Liquidated Damages), or, if there is no Purchase Order or there is nothing stated in the relevant Purchase Order with respect to liquidated damages for delay, the Supplier will be liable to a2NNZ for general damages resulting from the delay.

(b) The Supplier acknowledges and agrees that any Liquidated Damages payable under clause 4.8(a) are, and are intended to be:

- (i) a genuine pre-estimate of the Loss a2NNZ may incur or suffer if the Supplier fails to deliver any Product and/or Services by its relevant Delivery Date;
- (ii) reasonable in the context of the legitimate interests of a2NNZ in that regard; and
- (iii) not extravagant or unconscionable in the circumstances in which a2NNZ operates. In particular, the Supplier acknowledges that it is essential to a2NNZ that Products are delivered by the Delivery Date to ensure that a2NNZ's customers have confidence in continuity of supply of a2NNZ's products.

4.9 Title and risk:

(a) Legal and beneficial ownership of Products will pass to a2NNZ upon delivery of the Products to a2NNZ except where payment is made prior to delivery, in which case ownership in the Products will pass to a2NNZ as soon as payment is made. The Supplier acknowledges and accepts that this Agreement and any Purchase Order does not create a "security interest" (as that term is defined in the Personal Property Securities Act 1999) and, accordingly, the Supplier must not register a financing statement in relation to the supply of Products on the Personal Property Securities Register. Any purported retention of ownership or security interest for the purposes of the Personal Property Securities Act 1999 shall be without effect, and the Supplier warrants that clear title shall pass at the time required in accordance with this clause. The Supplier will immediately upon a2NNZ's request remove any financing statement that the Supplier has registered against a2NNZ on the Personal Property Securities Register.

(b) Risk in Products will pass to a2NNZ upon delivery (including unloading) to the Delivery Point.

5. CONTINUITY OF SUPPLY

5.1 Period of supply: The Supplier acknowledges that a2NNZ may require the Supplier to supply Product and/or Services in a manner and at times that enable a2NNZ or any of its businesses to operate on a 24-hour, 7 day a week, basis.

5.2 Priority: The Supplier will give priority to meeting its obligations to

a2NNZ under this Agreement, over its internal requirements and obligations to other customers, including if a Force Majeure Event occurs.

5.3 Product availability: If any Product is suspended in production or becomes unavailable, the Supplier must immediately notify a2NNZ and present a plan of action to a2NNZ, at the Supplier's cost, to maintain continuity of supply.

6. PRODUCT AND SERVICES WARRANTIES AND COMPLIANCE

6.1 Product warranties: The Supplier guarantees and warrants, as a continuing warranty, that:

- (a) the Products strictly conform to the Specifications and any samples approved by a2NNZ;
- (b) the Products are merchantable, fit and safe for consumer use and suitable for a2NNZ's intended use, of which the Supplier acknowledges it is aware (expressly or by implication);
- (c) all Product packaging (including outer packaging) accurately describes the relevant Products and complies with any additional directions of a2NNZ;
- (d) the Products are free from defects, including latent or inherent defects, defaults in design, material and manufacturing, and are of the highest quality attainable within the Specifications;
- (e) title to and property in the Products, free from all liens, charges, encumbrances or other security interests, will vest in a2NNZ on delivery of the Product in accordance with clause 4;
- (f) the Products strictly comply with all applicable statutory and regulatory requirements (including all statutes, regulations, policies, rules, laws and specifications applicable to the Products) including the statutory rules and regulations of the country of delivery and, in so far as known to the Supplier, the country of destination;
- (g) the Supplier holds all consents, approvals, permits, licences and accreditations necessary to manufacture (if applicable), store and supply the Products;
- (h) the Products and the supply of the Products to a2NNZ do not infringe the Intellectual Property rights of any person;
- (i) the Supplier has adequate resources available to enable the Supplier to meet a2NNZ's requirements under this Agreement;
- (j) the supply of the Products complies with all other implied conditions, warranties and statutory guarantees, including those contained in the Fair Trading Act 1986 and the Consumer Guarantees Act 1993; and
- (k) any representations, whether oral or in writing, that it has made to a2NNZ, including representations as to the Supplier's and/or the Supplier's Representatives' qualifications, experience and capacity to provide the Products, before entering this Agreement are true, complete and not misleading.

The Supplier will meet all valid guarantee and warranty claims on Products including those under the Contract and Commercial Law Act 2017. The Supplier indemnifies a2NNZ in relation to any guarantee and warranty claims made against a2NNZ.

6.2 Services Warranties: The Supplier guarantees and warrants, as a continuing warranty, that:

- (a) in providing the Services, it will act with reasonable care, skill and diligence;
- (b) it will comply with all timeframes, directions and other requirements of a2NNZ in relation to the Services in accordance with clause 4 and the Specifications;
- (c) it will provide all personnel, processes and resources required to provide the Services in accordance with this Agreement and any Purchase Order;
- (d) in providing the Services, it will not damage, disrupt or adversely affect the business operations, reputation, goodwill or assets of a2NNZ;
- (e) the Supplier holds all consents, approvals, permits, licences and accreditations necessary to provide the Services;
- (f) the Services do not infringe the Intellectual Property rights of any person;
- (g) the Supplier has the expertise, experience, resources, capacity and ability to enable the Supplier to perform and discharge its obligations under this Agreement in accordance with its terms and to meet a2NNZ's requirements under this Agreement;
- (h) the Supplier will minimise any disruption to a2NNZ's business and the activities of a2NNZ's personnel and any other service providers of a2NNZ;
- (i) the Supplier will provide reasonable cooperation to any other service provider of a2NNZ where the services provided by such other service provider interface with or relate to the Services;
- (j) the supply of the Services complies with all other implied conditions, warranties and statutory guarantees, including those contained in the Fair Trading Act 1986 and the Consumer Guarantees Act 1993;
- (k) any representations, whether oral or in writing, that it has made to a2NNZ, including representations as to the Supplier's and/or the Supplier's Representatives' qualifications, experience and capacity to provide the Services, before entering this Agreement are true, complete and not

misleading; and

(l) it will comply with all applicable laws and industry codes of practice, and obtain, maintain and comply with all applicable regulatory licences and consents.

The Supplier will meet all valid guarantee and warranty claims on Services including those under the Contract and Commercial Law Act 2017.

6.3 Third party warranties: The Supplier will obtain all usual and customary trade warranties from manufacturers and suppliers of raw materials used in the manufacture of Products or provision of the Services (if applicable) or in relation to goods acquired for supply under this Agreement, ensure that a2NNZ will have the benefits of those warranties and provide to a2NNZ details of such warranties, including duration and conditions.

6.4 General warranties: Each party represents to the other party that:

- (a) it has full legal capacity and power to enter into this Agreement;
- (b) it has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and to carry out the obligations contemplated in this Agreement; and
- (c) its entry into this Agreement and the obligations imposed on it under this Agreement do not breach any existing agreement or arrangement between it and any other person, and will not cause it to be in breach, or infringe the rights, of a third party.

a2NNZ makes no other warranty and excludes all warranties which may be implied by law as being given by a2NNZ under this Agreement, to the extent permitted by law.

6.5 Product information: The Supplier will provide a2NNZ with all information and documents a2NNZ reasonably requests about the Products and/or Services from time to time, including the origin, place and date of manufacture and the serial and batch numbers of Products.

6.6 Access to premises: a2NNZ or any of its Representatives may from time to time, on reasonable notice to the Supplier, review and audit the Supplier's compliance with this Agreement, including by:

- (a) inspecting the Supplier's records and premises (including the premises of any subcontractor of the Supplier relevant to the provision of Products and/or Services to a2NNZ); and
- (b) interviewing the Supplier's personnel involved in supplying the Products and/or Services. The Supplier must provide a2NNZ with reasonable access to its financial, operational, environmental and health and safety records, to the extent relevant to this Agreement.

The Supplier (including any of its employees, agents or nominees) may enter a2NNZ's premises in the ordinary course of business only. The Supplier (and its personnel) must comply with a2NNZ's reasonable directions, policies and requests while accessing a2NNZ's premises.

6.7 Health and safety:

- (a) The Supplier and a2NNZ will comply at all times with the Health and Safety at Work Act 2015. The Supplier and a2NNZ will consult, cooperate and coordinate activities relating to any health and safety matters arising in relation to this Agreement.
- (b) When delivering the Products and providing on-site Services, the Supplier (and its agents and subcontractors) shall respect and comply with all rules and standards in force at a2NNZ's premises regarding health, safety, working conditions and the environment.
- (c) a2NNZ shall be entitled to suspend or terminate this Agreement or any Purchase Order under it where a2NNZ considers that the Supplier is not complying with the requirements of this clause 6.7.
- (d) The Supplier will immediately:

- (i) notify a2NNZ if any person the Supplier has employed or engaged to perform any activity for the purposes of this Agreement is harmed in any way;
- (ii) notify a2NNZ if a2NNZ is, or is likely to be, in breach of the Health and Safety at Work Act 2015 as a result of the Supplier's failure to comply with the Health and Safety at Work Act 2015;
- (iii) do all acts and things that a2NNZ reasonably directs to ensure that both the Supplier and a2NNZ continue to comply with the Health and Safety at Work Act 2015 and/or to remedy any breach of the Health and Safety at Work Act 2015.

6.8 Compliance with laws:

The Supplier must comply with all relevant laws and regulations applying to its manufacture, supply and/or delivery of the Products and provision of the Services from time to time, including but not limited to governing protection of the environment, occupational health & safety, and labour and employment practices wherever the Supplier does business. The Supplier will indemnify a2NNZ for all expenses and losses a2NNZ incurs as a result of the Supplier's failure to comply with such laws. a2NNZ's rights, powers and remedies provided for in this Agreement are in addition to, do not limit or exclude (or otherwise adversely affect), any right, power or remedy provided to a2NNZ by law including under Part 3, subpart 5 and Part 2, subpart 3 of the Contract and Commercial Law Act 2017 unless expressly stated. a2NNZ can elect in its sole discretion whether this Agreement or any

law inconsistent with this Agreement applies, to the extent such law may be contracted out of. The Supplier acknowledges that this Agreement contains clauses that are for the benefit of any third-party purchaser of Products, and may if elected by a2NNZ for the purposes of the Part 2, subpart 1 of the Contract and Commercial Law Act 2017 be enforced by that third-party purchaser.

7. REJECTION

7.1 Rejection: If any Products and/or Services do not comply with any of the warranties, undertakings or obligations set out in this Agreement, or the Supplier delivers the incorrect quantity of Products, a2NNZ may, on notice to the Supplier, reject all or part of the relevant Products and/or Services or require the Supplier to repair the Products or perform or re-perform the Services as necessary to make them comply with the terms of this Agreement.

7.2 Effect of rejection: If any Products and/or Services are rejected by a2NNZ, such Products will be made available to the Supplier for collection and the Supplier will, at the option of a2NNZ, promptly either refund the Price paid for the Product and/or Services, replace the Product or perform or re-perform the Services or issue a credit note for the Price paid for the rejected Product and/or Services. The Supplier will assume all costs of storage, transportation, handling and disposal of rejected Products. a2NNZ reserves the right to deduct the price of the Product and/or Services and all its costs from any amount that is payable to the Supplier and if these amounts exceed the amount that is payable to the Supplier, the Supplier must refund the balance remaining in full within 5 working days of receipt of a written request from a2NNZ.

7.3 Removal of Intellectual Property: The Supplier will remove any trademarks, trade names and any other marks owned by, or identifying, a2NNZ or any of its Related Companies from any rejected Product before the Supplier disposes of such Product.

8. TERMINATION

8.1 Term: This Agreement comes into force as of the Effective Date, and shall remain in full force and effect for an agreed period, unless terminated earlier in accordance with clause 8.

8.2 Without-cause termination: This Agreement may be terminated at any time by:

- (a) a2NNZ on one month's prior written notice; or
- (b) the Supplier on six months' prior written notice.

8.3 Other termination rights: Either party may terminate this Agreement immediately by written notice to the other party if the other party:

- (a) breaches any warranty or material obligation under this Agreement, and the breach is not capable of being remedied, or is capable of being remedied and the defaulting party fails to remedy the breach to the non-defaulting party's satisfaction within 14 days after notice in writing has been given to the defaulting party requiring such breach to be remedied;
- (b) repeatedly or persistently breaches this Agreement;
- (c) suffers an Insolvency Event; or
- (d) is affected by a Force Majeure Event that delays or prevents the performance of either its obligations under this Agreement for more than 30 days in any 12 month period.

The Supplier making any statement or committing any act or omission indicating that the Supplier does not intend to (or cannot) perform its obligations under this Agreement will be deemed to be an irremediable material breach for the purposes of clause 8.3(a).

8.4 Change of control: a2NNZ may terminate this Agreement immediately by written notice to the Supplier if:

- (a) the Supplier's shareholding or ownership structure changes, and a2NNZ determines that such modification is for the benefit of a competitor of a2NNZ and/or is likely to undermine the commercial, legal or financial interests of a2NNZ; or
- (b) the Supplier breaches clause 19.5.

8.5 Purchase Orders:

- (a) Subject to clause 8.5(b), a2NNZ may cancel or postpone any Purchase Order, in whole or in part, at any time, by notifying the Supplier in writing.
- (b) a2NNZ will reimburse the Supplier for any direct costs that the Supplier has reasonably and actually incurred, if a2NNZ cancels a Purchase Order on less than one month's written notice and, prior to the date of cancellation, the Supplier:
 - (i) has returned a signed copy of this Agreement to a2NNZ, without modification;
 - (ii) has accepted the relevant Purchase Order; and
 - (iii) upon request from a2NNZ, provides evidence of the direct costs reasonably and actually incurred by the Supplier.
- (c) a2NNZ may at any time discontinue purchasing any or all of the Supplier's Products and/or Services, whether quantities or particular Products and/or Services, for any period of time, at a2NNZ's sole discretion. a2NNZ has no obligation to provide the Supplier with reasons for its decision or to provide the Supplier with reasonable notice of the

discontinuation. If a2NNZ exercises its discretion to discontinue, the Supplier will not make any claim against a2NNZ for any damages or otherwise.

8.6 Consequences of termination: Termination of this Agreement is without prejudice to any claim by either party against the other party arising out of any breach or non-performance by that party of any obligations assumed by or imposed on that party under this Agreement at any time prior to termination.

8.7 Return of information: Upon the termination of this Agreement, the Supplier will immediately return and, as applicable, procure the return of, all confidential information and Intellectual Property of a2NNZ to a2NNZ.

9. LIABILITY

9.1 Indemnity: In addition to a2NNZ's rights under the Contract and Commercial Law Act 2017, the Supplier irrevocably indemnifies a2NNZ and its Related Companies and Representatives and keeps a2NNZ and its Related Companies and Representatives indemnified, against any Loss arising as a direct or indirect result of any:

- (a) breach of any warranty, undertaking or obligation under this Agreement, including as a result of any act or omission by the Supplier or the Supplier's Representatives;
- (b) act, error, omission, negligence or other tortious conduct by the Supplier;
- (c) breach of confidence or other equitable wrong by the Supplier; and/or
- (d) breach of any statute by the Supplier, or any Loss which a2NNZ may sustain, pay, or incur as a result of or in connection with the Products and/or Services, including, in each case, Loss that arises from product recalls, procuring equivalent products from an alternative supplier, lost production time, regulatory investigations, liability to consumers, liquidated damages payable by a2NNZ to a third party as a consequence of a delay by the Supplier, legal costs on a solicitor and own client basis and insurance premium excess payments, unless and to the extent such cost, claim, demand, expense or liability is directly and solely attributable to the negligence of a2NNZ or the negligence of a duly authorised employee or agent of a2NNZ. This clause is intended for the benefit of, and is enforceable by, a2NNZ's Related Companies and Representatives for the purposes of the Contract and Commercial Law Act 2017.

9.2 Limitation of liability: a2NNZ's liability under or in connection with this Agreement is limited to its obligation to pay the Price for Products. a2NNZ excludes all liability for any losses or claims that the Supplier may incur.

10. INSURANCE

10.1 Insurance cover: The Supplier will maintain in full force and effect during the term of this Agreement, and for a period of six years following the termination of this Agreement, comprehensive insurance cover with responsible and reputable insurers sufficient to cover potential liability under this Agreement, including professional indemnity insurance, public liability and product liability, for a minimum amount of \$2,500,000 per insurable incident (except for public risk, which must have a minimum amount of \$10,000,000 per insurable incident), covering, without limitation, liability for Loss resulting from product recalls and damages or injury to persons, tangible and non-tangible assets, in each case on an occurrence basis.

10.2 Certificate of insurance: Promptly after the date of this Agreement, and on each expiration of any such certificate of insurance, the Supplier will provide to a2NNZ a certificate of insurance evidencing the insurance cover referred to in clause 10.1.

10.3 Additional insured: The Supplier shall ensure a2NNZ is added as an additional insured in relation to all policies where this is possible. Further, each insurance policy of the Supplier shall waive all rights of subrogation against a2NNZ.

10.4 Primary insurance: The Supplier's insurance policies shall be primary and non-contributory to any applicable coverage held by a2NNZ.

11. INTELLECTUAL PROPERTY

11.1 Intellectual Property rights:

- (a) Each party will remain the owner of all Intellectual Property rights owned by it prior to the date of this Agreement or created outside the scope of this Agreement. All rights, title and interest in and to any Intellectual Property developed or created under or in connection with this Agreement will vest in a2NNZ.
- (b) The Supplier will take any steps reasonably requested by a2NNZ from time to time, at a2NNZ's expense, to give effect to, and protect, a2NNZ's Intellectual Property rights, including:
 - (i) assigning, and procuring that the Suppliers' Representatives assign, to a2NNZ, all right, title and interest in a2NNZ's Intellectual Property rights;
 - (ii) assisting a2NNZ to register a2NNZ's Intellectual Property rights in New Zealand or elsewhere; and
 - (iii) assisting with any other steps reasonably requested by a2NNZ to protect a2NNZ's Intellectual Property rights against infringement by any third party.
- (c) The Supplier will not at any time, directly or indirectly, challenge:

- (i) the validity of; or
- (ii) a2NNZ's and its Related Companies' rights, title and interest in and to, a2NNZ's and its Related Companies' Intellectual Property rights or any application to register any such Intellectual Property rights in New Zealand or elsewhere by a2NNZ or a Related Company.

11.2 Restriction on use: Nothing implied in this Agreement confers on either party the right to use the other party's Intellectual Property rights, except to the extent required to fulfil its obligations or exercise its rights under this Agreement.

11.3 Possession or use of Products: The Supplier shall indemnify and hold a2NNZ harmless from and against all claims and lawsuits for infringement of Intellectual Property rights or based on unfair competition resulting from the possession and/or use of the Products by a2NNZ or a2NNZ's receipt of any Services.

11.4 Third Party Intellectual Property rights: The Supplier warrants that the Products and/or Services do not breach the Intellectual Property rights of any third parties, and indemnifies a2NNZ fully in respect of any such breach. The Supplier agrees that it will not knowingly breach the Intellectual Property rights of any third parties in its dealings with a2NNZ.

12. CONFIDENTIALITY

Each party must maintain as strictly confidential any information relating to the other party that by its nature, or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential, including the existence and terms of this Agreement or any Purchase Order and Intellectual Property of a2NNZ (Confidential Information). Neither party will use or disclose any Confidential information, except:

- (a) so far as may be reasonably necessary to enable that party to fulfil its obligations under this Agreement;
 - (b) as required by law or the rules of a recognised stock exchange;
 - (c) as agreed by the party whose information is to be disclosed; or
 - (d) Confidential Information disclosed by a2NNZ to a Related Company.
- Each party must procure that its Representatives comply with this clause 12.

13. CRISIS AND ANNOUNCEMENTS

13.1 Crisis and incident management: The Supplier must comply with a2NNZ's then-current Crisis Management Minimum Requirements, if a Crisis or Incident arises. For the purposes of this clause and a2NNZ's Crisis Management Minimum Requirements:

- (a) Crisis means a situation characterised by a severe, often unexpected, break in business continuity, a high degree of uncertainty concerning the course of events and the potential involvement of the media and/or authorities, which represents a threat to people (consumers, the local community, company employees and/or third parties), the business (financial situation, key activities, reputation of the company, a part of the company or a brand) and/or to the environment; and
- (b) Incident means an unexpected event that requires immediate attention and action, that interrupts normal procedure but has limited or no impact on people and/or the business and/or the environment and is expected to be managed and brought back under control with normal day-to-day operation.

13.2 No announcements: The Supplier must not make any announcement relating to this Agreement or its subject matter, or any incident or crisis in connection with this Agreement, without a2NNZ's prior written consent.

14. FORCE MAJEURE

Where either party is unable, wholly or in part, by reason of a Force Majeure Event to carry out any obligation under this Agreement and that party:

- (a) gives the other party immediate written notice of the nature and expected duration of, and the obligation affected by, the Force Majeure Event; and
- (b) uses all reasonable endeavours:
 - (i) to mitigate the effects of the Force Majeure Event on that party's obligations under this Agreement;
 - (ii) to perform that party's obligations under this Agreement despite the Force Majeure Event; and
 - (iii) to resume full performance as soon as reasonably practicable, that obligation is suspended so far as it is affected by the Force Majeure Event during its continuance. The non-affected party shall be relieved of its corresponding obligations to the same extent the affected party is relieved of its obligations due to this clause 14.

15. SUSTAINABILITY PRINCIPLES

15.1 Sustainability Principles: The Supplier must comply with a2NNZ's Sustainability Principles, including:

- the Fundamental Social Principles;
- the Fundamental Environmental Principles; and
- the Business Ethics Principles.

15.2 Compliance: The Supplier warrants that the Fundamental Social Principles and the Business Ethics Principles are already in place in its own organisation and undertakes to, and will ensure that its Representatives, respect the Fundamental Social Principles and the Business Ethics

Principles throughout all stages of production and supply of the Products. The Supplier undertakes that it will strive to continuously work on the implementation of the Fundamental Environmental Principles.

15.3 Audit rights: a2NNZ or any of its Representatives may, at any time, monitor the Supplier's compliance with the Sustainability Principles, including by inspecting the Supplier's manufacturing and warehousing sites, any other premises and plants and company records, in accordance with clause 6.6. The Supplier will provide a2NNZ with information and access to the Supplier's Representatives as reasonably requested by a2NNZ in connection with the Supplier's compliance with the Sustainability Principles.

15.4 Material breach: A breach of the Sustainability Principles is deemed to be a material breach of this Agreement, and will result in a right to terminate this Agreement under clause 8.3(a).

16. REMEDIAL PLAN

(a) In addition to any other rights and remedies which a2NNZ may have, if a2NNZ notifies the Supplier that it has identified a breach by the Supplier of this Agreement, including the Sustainability Principles (Breach Notification), the parties will meet immediately at a2NNZ's request and discuss the reasons for the breach.

(b) Within eight Business Days of the Breach Notification, the Supplier must provide a2NNZ with a remedial action plan (Remedial Plan), including a time schedule, which is satisfactory to a2NNZ.

(c) If the Supplier does not provide a2NNZ with a Remedial Plan that is satisfactory to a2NNZ within eight Business Days of the Breach Notification or the Remedial Plan is not implemented to a2NNZ's satisfaction in accordance with the approved time schedule, a2NNZ may:

- (i) appoint a third party to carry out the Supplier's obligations, at the Supplier's cost; and/or
- (ii) cancel the Purchase Orders in force and/or terminate this Agreement in full.

17. DISPUTE RESOLUTION

17.1 Process: If a dispute, difference or question arises between the parties out of or in connection with this Agreement or the subject matter of this Agreement (a Dispute), the process for resolving the Dispute will be as set out in this clause 17 and, in particular, no party may commence court proceedings relating to the Dispute (unless that party is seeking urgent interlocutory relief).

17.2 Notice of dispute: A party claiming that a Dispute has arisen must give written notice to the other party specifying the matter in dispute.

17.3 Parties to use reasonable endeavours: After a party has given a notice under clause 17.2, the parties must use their reasonable endeavours to resolve the Dispute within 20 Business Days of the date of that notice, including by making available for a meeting (in person, or via videoconference if the parties are in different cities) representatives with authority to settle the Dispute.

17.4 Further negotiations: If the Dispute is not resolved under clause 17.3, the parties must within a further 20 Business Days (or further period agreed in writing) seek to agree on a process for resolving expeditiously and cost-effectively the whole or part of the Dispute through means other than arbitration such as, and without limitation, further negotiations, mediation, conciliation, independent expert determination or any other alternative dispute resolution technique.

17.5 Arbitration: If the Supplier and a2NNZ do not agree an alternative process for resolving the dispute under clause 17.4 within the 20 Business Days (or the further period agreed in writing), or if they do but the Dispute is not resolved under that alternative process within 30 Business days of commencement of that alternative dispute resolution process, the Dispute may be referred to arbitration by written notice given by either party to the other and the following will apply:

(a) the arbitration will be in accordance with the New Zealand Dispute Resolution Centre (NZDRC) Rules for Expedited Commercial Arbitration ECA60;

(b) the arbitration will be by a sole arbitrator to be agreed between the parties. If the arbitrator is not agreed between the parties within 10 Business Days of the notice referring the Dispute to arbitration, the arbitrator will be appointed by NZDRC upon the application of any party;

(c) the arbitration will take place in Auckland, New Zealand and all proceedings and submissions will be in English; and

(d) the award in the arbitration will be final and binding on the parties, subject only to Articles 33 and 34 of the First Schedule, and the right to appeal on questions of law under clauses 5(1)(b) and (c) of the Second Schedule to the Arbitration Act 1996.

17.6 Continuing obligations: Notwithstanding the Dispute, each party will continue to perform its obligations under this Agreement as far as possible as if no Dispute had arisen, pending the final resolution of the Dispute.

17.7 Urgent interlocutory relief: Nothing in this clause 17 will prevent either party from seeking urgent interlocutory relief from the courts.

18. NOTICES

18.1 Form of notice: Notices or other communications given by one party to the other in connection with this Agreement are to be in writing and sent by personal delivery, pre-paid post, or email to the address of the relevant party notified to the other party from time to time.

18.2 Notice deemed received: Any notice or other communication is deemed to be received and sufficiently served:

- (a) if personally delivered, on receipt;
- (b) if posted by pre-paid official postal service, on the fifth Business Day after posting (or seven Business Days after posting if sent from one country to another); and
- (c) if sent by email, at which the sender's information system indicates that the email was successfully sent without error, if dispatched after 5.00pm or on a non-Business Day, at 9.00am on the next Business Day after dispatch.

19. MISCELLANEOUS

19.1 Rights cumulative: All rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any clause or any other agreement between the parties or otherwise.

19.2 Entire agreement: This Agreement constitutes the entire agreement of the parties concerning the subject matter of this Agreement, and supersedes and cancels any previous representations, agreements, understandings or arrangements (whether written or oral) between the parties relating to the supply of Products and/or Services by the Supplier. All Products and/or Services supplied by the Supplier to a2NNZ are supplied on the terms of this Agreement only and any other terms, including any general or specific terms and conditions that may appear on the Supplier's invoices, estimates, quotations, shipping forms or any other documentation, are expressly excluded. For the avoidance of doubt, nothing in this Agreement prevents a2NNZ from making any claim against the Supplier under the Contract and Commercial Law Act 2017 or Fair Trading Act 1986.

19.3 Survival of provisions: Termination or expiry of this Agreement will not affect any provisions of this Agreement that are expressed to, or by implication are intended to, survive termination or expiry of this Agreement, including clauses 6, 9, 10, 11, 12, 13, 15.4, 16 and 19.

19.4 Assignment and subcontracting: The Supplier may not assign, transfer or sub-contract all or any of the Supplier's rights or obligations under this Agreement without a2NNZ's prior written consent. A change in the effective management or control of the Supplier or any parent company of the Supplier will be deemed to be an assignment of this Agreement, requiring a2NNZ's prior written consent. Any permitted assignment, transfer or sub-contracting will not relieve the Supplier of the Supplier's responsibility for due performance of this Agreement.

19.5 Waiver: A waiver of any breach of this Agreement or any right, power or remedy under, or in connection with, this Agreement (including a right of termination) is not effective unless that waiver is in writing and is signed by the party granting the waiver. A failure to exercise, a delay in exercising, or a partial exercise of, any right, power or remedy under, or in connection with, this Agreement does not operate as a waiver of such right, power or remedy. A waiver of any breach is not, and is not deemed to be, a waiver of any other or subsequent breach.

19.6 Severability: If any provision of this Agreement is illegal, invalid or unenforceable then:

- (a) where that provision can be modified to give it a valid and enforceable operation of a partial nature, it must be modified to the minimum extent necessary to achieve that result; and
- (b) in any other case the provision must be severed from this Agreement, in which event the remaining provisions of this Agreement operate as if the severed provision had not been included.

19.7 Amendments or variations: a2NNZ may vary this Agreement from time to time upon notice to the Supplier. Continued supply of Products will constitute deemed acceptance of any notified variation of this Agreement.

19.8 Relationship of parties: The relationship of the Supplier (including its Representatives and permitted assigns) to a2NNZ is that of an independent supplier to its customer. Except as expressly provided in this Agreement, nothing in this Agreement is intended to constitute a relationship of employment, trust, agency, joint venture, partnership or any other fiduciary relationship between the parties. No party has authority to bind or incur debts on behalf of the other party.

19.9 No circumvention and further assurances: Neither party will circumvent or attempt to circumvent the intention or wording of this Agreement, and each party is to sign, execute and do all agreements, documents, schedules, acts and things as may reasonably be required by the other party effectively to carry out and give effect to the terms and intentions of this Agreement.

19.10 Own costs and expenses: Each party is to bear its own legal, accountancy and other professional costs and other expenses of, and incidental to, the execution, completion and performance of this Agreement.

19.11 Governing law and jurisdiction: This Agreement is governed by

the laws of New Zealand and the United Nations Convention on Contracts for the International Sale of Goods does not apply. Subject to clause 17, the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

19.12 Enforcement: This Agreement is enforceable once it is signed by both parties.

19.13 No Solicitation: The Supplier agree that, while this Agreement is in force and for the period of 12 months after it ends, the Supplier will not (whether on its own account or for any other person) solicit or entice, or endeavour to solicit or entice, away from a2NNZ any employee, officer, contractor, agent or consultant of or to a2NNZ.

19.14 Interpretation: In this Agreement:

- (a) headings are for convenience only and do not affect interpretation;
- (b) a word importing the singular includes the plural and vice versa;
- (c) the word person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust or government agency, in each case, whether or not having a separate legal personality;
- (d) a reference to a party to this Agreement or another document includes that party's successors and permitted assigns and substitutes;
- (e) a reference to approval, agreement or confirmation means approval, agreement or confirmation in writing at the relevant party's discretion;
- (f) references to "including" will be construed as "including, without limitation";
- (g) where a word or phrase is defined, its other grammatical forms have a corresponding meaning throughout this Agreement;
- (h) any reference to any agreement or document includes that agreement or document as amended at any time;
- (i) the expression "at any time" includes reference to past, present and future time and the performance of any action from time to time;
- (j) a reference to a clause is a reference to a clause of this Agreement and a reference to a Schedule is a reference to the corresponding Schedule to this Agreement;
- (k) when a thing is required to be done or money required to be paid under this Agreement on a day that is not a Business Day, the thing must be done, or the money paid on the next Business Day;
- (l) any references to law includes any national or local law, by-law, statute, act, regulation, other enactment, New Zealand Standard, code, permit, consent, district plan, regional plan, approved code of practice, order, common law, ruling or other requirement or rule of law or any rule, code or other requirement promulgated by a government authority or other regulatory body;
- (m) references to any legislation or to any provision of any legislation (including regulations, subordinate legislation and orders) includes that legislation or provision as amended, consolidated, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision, in each case whether before or after the date of this Agreement;
- (n) all currency amounts are in New Zealand dollars unless expressly stated otherwise;
- (o) an obligation not to do something will be deemed to include an obligation not to suffer, permit, or cause that thing to be done. An obligation to do something will be deemed to include an obligation to cause that thing to be done;
- (p) this Agreement must not be construed adversely to a2NNZ because a2NNZ prepared it or caused it to be prepared; and
- (q) in the event of an inconsistency between these general conditions of purchase and a Purchase Order, unless expressly agreed otherwise in writing (including in a Purchase Order), these general conditions of purchase will prevail to the extent of the inconsistency.

Read and agreed:

Company

Name

Title

Signature

Date