

## Volac Milk Replacers Ireland Limited Standard Terms and Conditions of SALE

### **1 INTERPRETATION**

1.1 In these terms and conditions of sale ("**Terms**"):

1.1.1 "**Company**" means Volac Milk Replacers Ireland Limited (company number 747633) whose registered office is at 6th Floor, South Bank House, Barrow Street, Dublin 4, Ireland.

1.1.2 "**Buyer**" means the company, partnership, other legal entity, body or natural person whose order for the Goods is accepted by the Company.

1.1.3 "**Force Majeure Event**" means operational malfunction of any kind, difficulties in procuring materials or energy, transport delays caused by third parties, strikes, lawful lock-outs, shortage of workers, energy or raw materials, difficulties in obtaining necessary official permits, actions by public authorities, pandemics or epidemics, or failure to supply, to supply correctly or to supply on time on the part of suppliers.

1.1.4 "**Goods**" means the products which the Company is to supply in accordance with these Terms.

1.1.5 "**Order**" means an order for Goods entered into by the Company and the Buyer in accordance with paragraph 3 below.

### **2 BASIS OF SALE**

2.1 In these terms and conditions:

2.1.1 The Company sells Goods to the Buyer strictly subject to these Terms, which shall be an integral part of all contracts which the Company concludes for the supply of Goods.

2.1.2 The Buyer placing an Order with the Company shall constitute an acceptance by Buyer of the Terms, which shall be binding on both parties unless otherwise expressly agreed in writing by the parties.

2.1.3 No additions or modifications will be binding unless accepted by the Company in writing. These Terms shall override and take the place of any other terms or conditions in any other document.

2.2 By placing an Order for Goods, the Buyer is confirming that it has read, understood and accepted these Terms and is agreeing to comply with these Terms.

### **3 ORDERS**

3.1 An Order placed by the Buyer will be treated as an offer by the Buyer to purchase the Goods referred to in that Order.

3.2 No Order submitted by the Buyer will be binding on the Company unless and until the Company has confirmed in writing that the Buyer's Order has been accepted (an "**order confirmation**").

3.3 The quantity, quality, description and specification of Goods along with estimated delivery date will be set out in the order confirmation.

3.4 No Order which has been accepted by the Company may be cancelled by the Buyer except with the Company's written agreement and on the proviso that the Buyer will indemnify the Company in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by us as a result of the Buyer's cancellation. This includes the costs of any raw and packaging materials the Company has bought to fulfil the cancelled Order.

#### **For further information contact**

**Volac Milk Replacers Ireland Limited**, Feagh, Mullagh, Kells, Co. Meath, Ireland, A82 E7C5

T +353 (0) 46 921 2906 sales@feedforgrowth.com www.volac.com

Registered office: 6th Floor, South Bank House, Barrow Street, Dublin 4, Ireland.

Company registration number: 747633 VAT number: 4194126WH

3.5 Any addition, alteration or modification of an Order will need the Company's written confirmation.

#### **4 TIME**

4.1 Any period or times stated for collection by the Buyer at the Company's premises or for delivery to the Buyer are estimates only. The Company shall use reasonable endeavours to meet any such periods of time, but the Company accepts no responsibility for direct or indirect loss or damage of whatever nature resulting from reasonable delays. Time shall not be of the essence in respect of any period or times for collection or delivery.

4.2 Where Goods are to be collected/ delivered in instalments, any failure by the Buyer to comply with these Terms will entitle the Company to withhold further instalments.

#### **5 PRICES AND TERMS**

5.1 The price for Goods will be set out in the order confirmation or in writing by the Company.

5.2 Unless otherwise stated, prices do not include any excise, customs duty, tariffs or value added or other tax, which taxes and duties will be added to the price as required by law or regulation and paid by the Buyer along with the price. The Company will notify the Buyer of any changes to the price of Goods from time to time.

5.3 If the Buyer fails to comply with the Terms of Payment set out below, the Company has the right to terminate any contract without prejudice to its rights hereunder.

5.4 The Buyer shall make all payments due to the Company in full without any deduction by way of set-off, counterclaim or otherwise.

#### **6 TERMS OF PAYMENT**

6.1 Payment of invoices in respect of the Goods shall be made within 28 days of the date of the invoice save where otherwise agreed in writing by the Company. If the Buyer fails to comply with the relevant terms of payment the Company has the right to:

6.1.1 terminate the relevant Order without prejudice to its rights hereunder; and/or

6.1.2 charge the Buyer interest for late payments at the annual rate of 8% above EURIBOR calculated daily until payment in full is made.

#### **7 EXPORT SALES**

7.1 The Buyer shall be responsible for payment of any import duties and taxes and for arranging all export, import and certification documents and for complying with any applicable law governing the importation of the Goods into the country of destination.

7.2 The Company has no control over import duties and taxes and cannot predict their amount. The Buyer should contact its local customs office for further information before placing the Order.

7.3 Unless otherwise agreed in writing between the Buyer and the Company and subject to all other terms and these Terms, the Goods shall be delivered Free Carrier (FCA Incoterms). In any case where Goods are sold on the basis of a particular Incoterm or other international trade term, that Incoterm (unless otherwise stated, interpreted in accordance with the latest version of Incoterms published as at the date

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the relevant Order is agreed) or international trade term shall apply to the Order except to the extent inconsistent with any of the provisions contained in these Terms.

## **8 DESPATCH AND DELIVERY**

- 8.1 In cases where Goods are to be delivered by the Company to the Buyer or collected by the Buyer from the Company within a specific period and where the Buyer cannot accept delivery or effect collection in the said period the Company may, at its discretion either (i) store the Goods and take all reasonable steps to prevent their deterioration until their actual delivery or collection and the Buyer shall be liable to the Company for the cost (including insurance) of its so doing or (ii) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price payable by the Buyer or charge the Buyer for any shortfall below such price.
- 8.2 This provision shall be in addition to, not in substitution for, any other payment or damages for which the Buyer may become liable in respect of his failure to take delivery or collect at the appropriate time.
- 8.3 Where requested by the Company, the Buyer shall provide at its own expense adequate and appropriate equipment and manual labour for loading the Goods on collection from the Company or for unloading the Goods upon delivery by the Company.

## **9 PROPERTY AND INSURANCE**

- 9.1 The risk of the Goods will pass to the Buyer on delivery by the Company or on collection by the Buyer (as applicable). Thereafter, the Buyer shall be responsible for the satisfactory care and protection of the Goods and shall take out at its own expense adequate comprehensive all risks insurance on the Goods until the title in the Goods passes in accordance with clause 9.3 below.
- 9.2 Any storage costs incurred after the risk has transferred shall be borne by the Buyer. Goods shall be stored in an environment appropriate for the Goods and in compliance with technical and statutory standards.
- 9.3 The title in the Goods shall remain the property of the Company and shall not pass to the Buyer until the Buyer has discharged all sums due to the Company at the date of the final handing over of possession of the Goods whether such sums shall be due on foot of this transaction or transactions.
- 9.4 Any re-sale of the Goods before title has passed in accordance with clause 9.3 must be made in the ordinary course of business and at full market value, in which case title in the Goods will pass to the Buyer immediately before the re-sale occurs.
- 9.5 Until the Buyer has paid the Company in full for the Goods, the Buyer will:
- 9.5.1 keep the Goods safely and separate from any other goods being stored so that they remain readily identifiable as the Company's property;
  - 9.5.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 9.5.3 keep the Goods free from damage and insured on the Company's behalf against loss, theft and damage; and
  - 9.5.4 give the Company such information relating to the Goods as the Company may require from time to time.

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9.5.5 In the event of a default on payments by the Buyer or where the Company reasonably apprehends that the Buyer is insolvent, or otherwise unable to pay its debts as they fall due, or filings have been made, the Company and its authorised agents and representatives shall have the right to access the property of the Buyer in order to identify or recover any Goods in the possession of the Buyer for which the Company has not been paid in full. Prior notice shall not be required, but any such visit will only be made within reasonable business hours.

## **10 GOODS DAMAGED/LOST IN TRANSIT**

10.1 The Company will repair or replace free of charge any Goods damaged or lost in transit (excluding any transit from the Company's store in respect of Goods collected by the Buyer, or where risk in the Goods has otherwise passed to the Buyer before the loss or damage occurs) or make up an incomplete delivery, on condition that the Buyer gives the Company notice in writing of such loss, damage or incomplete delivery within 72 hours of delivery.

## **11 INTELLECTUAL PROPERTY**

11.1 The Goods contain trademarks (registered or unregistered) and brand names belonging to the Company. The Company grants the Buyer a limited non-transferable and non-exclusive right to use the Company's trademarks and brand names relating to the Goods only to the extent necessary to re-sell the Goods and only in line with the Company's instructions.

11.2 The Buyer must not alter or change the packaging labeling, or trademarks of the Goods from the way in which they are sold to the Buyer.

11.3 The Buyer must not register the Company's brand names, trademarks or company names as a trademark, company name or domain name or social media account.

11.4 The Buyer must get the Company's permission to use any of the trademarks, logos or copyrighted information in its promotional activities.

## **12 WARRANTY**

12.1 Animal Feeding Stuffs.

The Company warrants that at the time of collection/delivery the Goods will conform to the provisions of the Sale of Goods and Supply of Services Act 1980 together with any applicable EU or Irish legislation applying to animal feedstuffs) and shall be suitable for the purpose for which they were sold by the Company. No other warranty in respect of any defect or failure whether expressed or implied shall apply. The Company's liability in respect of any breach of these warranties or defect or failure in the Goods shall be limited to the price paid for the Goods or exchange (replacement) of the Goods at the Company's option.

12.2 Equipment.

The Company warrants equipment sold to the Buyer in accordance with warranties given by the manufacturer (who is not the Company) of the equipment. Details of such

warranties are available on request. However, warranties will be limited to making good defective workmanship and faulty materials only and shall not apply to consequential or indirect loss. Furthermore, it will not apply to consumable items.

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### **13 LIMITATION OF LIABILITY**

- 13.1 The Company's liability under any sale or contract is limited to making good defects or failure in Goods to the extent provided in Clause 12 hereof, and subject thereto, the Company shall not in any circumstances be liable for any loss, damage or expense (including indirect and consequential loss or damage) of any nature howsoever arising and including but not limited to, any resulting directly or indirectly from the negligent act or default of the Company, its servants, agents or suppliers or from anything supplied or specified by the Buyer. Any liability of the Company under each Order for Goods is limited to the price paid for the Goods under the relevant Order.
- 13.2 Subject to clause 13.3, in no circumstances shall the Company be liable to the Buyer for any loss of profits, revenue, goodwill, business opportunity or any other direct or indirect financial or economic loss or damage howsoever incurred.
- 13.3 Nothing in these Terms will be construed as limiting or excluding liability for:
- 13.3.1 death or personal injury resulting from negligence of the Company or its agents;
  - 13.3.2 fraud or fraudulent misrepresentation; and
  - 13.3.3 liability that cannot be excluded or restricted by applicable law.

### **14 PERFORMANCE DATA AND SPECIFICATION**

- 14.1 Any performance figures quoted or referred to in any specification or other document put out by the Company are estimates only based on assumed conditions, and levels of management, with experience, adequate and efficient users and proper utilisation of satisfactory materials. All these factors are outside the control of the Company and consequently performance cannot be, and is not, warranted.
- 14.2 The Company reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable safety, hygiene, or other regulatory requirements.

### **15 USE OF THE GOODS**

- 15.1 The Buyer shall use the Goods only in accordance with any instructions set out on or in any packaging, labelling or documentation provided with the Goods or otherwise made available to the Buyer by the Company. In particular, the Buyer shall not use any Goods or knowingly permit any Goods to be used beyond any applicable use-by date or that have not been stored in accordance with any relevant instructions.

### **16 TERMINATION**

- 16.1 The Company may terminate any contract and cancel any Order immediately without liability to the Buyer if:
- 16.1.1 the Buyer commits a material or persistent breach of any provision of these Terms which (in the case of a breach capable of being remedied) is not remedied within 15 days of a written request to remedy the same; or
  - 16.1.2 the Buyer has an examiner appointed, has entered liquidation or any arrangement with its creditors (other than in relation to a solvent restructuring), is being wound up (whether voluntarily or by order of the court, unless for the
  - 16.1.3 purpose of a solvent restructuring), has a receiver appointed to any of its assets or ceases to carry

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on business, or is subject to any equivalent procedure in another jurisdiction; or

16.1.4 the Buyer ceases or suspends, or threatens to cease or suspend, carrying on all or a substantial part of its business.

16.2 Any termination of a contract or cancellation of an Order shall be without prejudice to any other rights or remedies that either the Company or the Buyer may be entitled to under these Terms or under applicable law. All outstanding payments owed to the Company by the Buyer shall become due upon termination.

## **17 FORCE MAJEURE**

17.1 The Company shall be entitled to cancel or rescind an Order, and in any event shall not be liable for loss or damage, if the performance of the Company's obligations is prevented or adversely affected by a Force Majeure Event.

## **18 MISCELLANEOUS**

18.1 These Terms shall be subject to Irish law. The place of jurisdiction for any disputes (whether contractual or non-contractual) between the Buyer and the Company shall be the courts of Ireland.

18.2 If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Terms.

18.3 No relaxation, forbearance or delay by the Company in enforcing any rights under these Terms will affect, prejudice or restrict the Company's rights and any waiver by the Company in respect of any breach of contract or breach of the Terms by the Buyer will not operate as a waiver of any subsequent or continuing breach.