



Sysco GB Terms & Conditions of Sale

These are the Terms and Conditions on which Sysco sells products to its customers. All customers are requested to read these Terms and Conditions carefully and, by becoming a customer of Sysco, the Customer shall be deemed to agree all purchases of products are subject to these Terms and Conditions.

1. DEFINITIONS

In these Terms and Conditions the following definitions apply:

Affiliate	means in relation to any party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.
Bespoke Product	means a Product that is manufactured, prepared or adapted to the Customer's own specification and which does not form part of Sysco's range of Listed Products.
Contract	means the contract between Sysco and the Customer for the sale and purchase of the Products in accordance with these Terms and Conditions.
Customer	means any person, firm, company or other legal entity and/or Affiliate thereof which places an order, or buys any Products from Sysco.
Delisted Date	means the date from when Sysco shall cease to deliver a Delisted Product.
Delisted Product	means a Nominated Product that the Customer no longer requires.
Equipment	means any machine or equipment.
Listed Product	means a Product which is part of Sysco's standard range of products publicised as being for sale on Sysco's website and/or in their printed publications.
Nominated and Sourced New Line Form	means the Nominated and Sourced New Line Form of Sysco from time to time.
Nominated Product	means a Product that is not sourced by Sysco and which does not form part of Sysco's range of Listed Products, but which at the request of the Customer Sysco has agreed to purchase from the supplier thereof and supply to the Customer.
Products	means any products in the Contract to be supplied by Sysco to the Customer.
Sourced Product	means a Product which Sysco has identified and sourced using its own supplier relationships to meet a specific requirement of the Customer, where the Customer does not have a direct contractual relationship with the supplier. For the avoidance of doubt, a Sourced Product is not a Listed Product because it does not form part of Sysco's standard range of products, and is not a Nominated Product because the Customer does not have a direct contractual relationship with the relevant supplier and has requested Sysco to identify and source a product that meets the Customer's requirements.
Statutory Interest	means statutory interest as defined in the Late Payment of Commercial Debts (Interest) Act 1998 as amended & supplemented by the Late Payment of Commercial Debts Regulations 2002.

Sysco	means Sysco GB Limited (registered company number 02035315) whose trading divisions include without limitation Sysco, Brakes, Fresh Direct, Kff, Medina Foodservice, Country Choice, Brakes Catering Equipment, M&J Fresh Seafood, Fresh Kitchen, Wild Harvest and Roots, and/or any Affiliate of Sysco GB Limited.
Terms and Conditions	means these terms and conditions of sale as may be amended by Sysco from time to time without notice.

2. APPLICABILITY OF TERMS AND CONDITIONS

These Terms and Conditions shall be incorporated into the Contract and shall apply in place of and prevail over any terms and conditions contained or referred to in any communication from the Customer or implied by trade, custom or practice or course of dealing. Other purported terms and conditions which the Customer seeks to impose or incorporate are expressly rejected by Sysco.

3. ORDERS AND CONTRACTS

- 3.1. By placing an order with Sysco either via Sysco's telesales department, Sysco's website or otherwise, the Customer is offering to purchase the Products in accordance with these Terms and Conditions. The Contract shall be formed when Sysco acknowledges acceptance of the Customer's order or commences delivery of the Products to the Customer, whichever occurs earlier.
- 3.2. Each order shall be subject to Sysco's minimum order value in force from time to time. Details of the minimum order value are available on request.
- 3.3. The Customer is responsible for ensuring that the terms of any order are complete and accurate.
- 3.4. No pricing made available to the Customer in any way shall constitute an offer and Sysco may amend its prices at any time.
- 3.5. Price is exclusive of any sales, processing, excise, value added or other taxes, duties or levies (collectively, "**Taxes**"), and such Taxes shall be added to the price of the Product on the related invoice and paid by the Customer. The Product price is the price applicable at the time of delivery (not at point of placing the order).
- 3.6. Price is inclusive of delivery of the Products by Sysco to such address within mainland Great Britain as is agreed by Sysco but does not include carriage and packing on special or urgent deliveries requested by the Customer, or on orders of a non-routine nature or outside mainland Great Britain.
- 3.7. The Contract is subject to availability of stock and Sysco reserves the right to vary or alter the specification of Products without notice unless otherwise agreed in writing with the Customer. The full range of Listed Products may not be stocked in all Sysco depots.
- 3.8. The Contract constitutes the entire agreement between the parties and the Customer acknowledges that it has not relied on any statement, promise or representation made or given by, or on behalf of, Sysco which is not set out in the Contract.
- 3.9. Any drawings, descriptions or serving suggestions contained in Sysco's catalogues, brochures or sales material or on Sysco's website are produced for the sole purpose of giving an approximate idea of the Products. They shall not form part of the Contract or have any contractual force.

4. TITLE & RISK

- 4.1. Subject to Clause 4.2, the risk of loss or damage to the Products shall pass to the Customer on completion of delivery, in accordance with Clause 6.3.

- 4.2. Sysco shall not be responsible for any loss or damage to the Products which is caused due to the condition of the Delivery Location (as defined below) or any act, default or omission of the Customer or its representatives.
- 4.3. Title in the Products shall not pass to the Customer until Sysco has received in full and cleared funds all sums due to it in respect of the Products and all other sums which are or which become due to Sysco from the Customer on any account.
- 4.4. Until title passes to the Customer, the Customer shall hold the Products on a fiduciary basis as Sysco's bailee; store the Products separately from all other products in such a way that they are clearly identifiable as the property of Sysco; maintain the Products in a satisfactory condition; keep the Products insured on Sysco's behalf for their full price against all risks; and notify Sysco immediately if it becomes subject to any of the events listed in Clause 9, but the Customer may resell or use the Products in the ordinary course of its business.
- 4.5. If before title in the Products passes to the Customer the Customer becomes subject to any of the events listed in Clause 9 or Sysco reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Products have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Sysco may have, Sysco may at any time require the Customer to deliver up the Products and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored, in order to recover them.

5. PAYMENT TERMS

- 5.1. Where credit is granted, unless Sysco agrees different credit terms with the Customer, all sums payable in respect of the Products must be paid without deductions within 14 days from the end of the calendar month in which the invoice was raised. Credit will be considered subject to a credit assessment being completed. Sysco may carry out a new credit assessment from time to time. Sysco does not accept cash payments (unless expressly agreed in writing).
- 5.2. Failure to pay by the due date shall entitle Sysco to suspend delivery of all unexecuted or future orders. The time for payment of the price of the Products shall be of the essence.
- 5.3. Sysco reserves the right at any time in its absolute discretion to demand immediate payment of any account whether due or not. The Customer shall indemnify Sysco on demand for all legal and other costs incurred in connection with any breach of these Terms and Conditions or the enforcement of Sysco's rights, such costs being recoverable as a debt on a full indemnity basis.
- 5.4. If payment is not made in accordance with this Clause, Sysco reserves the right to charge Statutory Interest on the overdue balances for the period from the date on which payment became due until the date on which payment is made including any period after the date of any judgement or decree against the Customer. In addition each overdue invoice will attract a late payment compensation fee of £40.
- 5.5. In the event of any cheques (where permitted), standing orders or direct debits due from a Customer to Sysco being dishonoured, a charge of £45 (or such other sum as Sysco may from time to time advise the Customer) will be made on the Customer's account to cover bank and administrative costs.
- 5.6. Sysco reserves the right in its absolute discretion to refuse to grant credit (or to remove any credit facilities or to adjust the same from time to time) and in the event the Customer enters into an insolvency arrangement or the Customer's credit rating or financial standing deteriorates in a way that presents a credit risk, Sysco may remove any credit terms previously agreed with the Customer and (without prejudice to any other rights that Sysco may be entitled to) impose new payment terms, including payment on delivery.

- 5.7. Sysco may, at any time, without limiting any other rights or remedies it may have, set-off any amount owing to it by the Customer against any amount payable by Sysco to the Customer.
- 5.8. Where a Customer is notified by Sysco that any rebate, overrider or fee is due to the Customer, the Customer must invoice Sysco for such sums within 3 months of such notification. Sysco shall not be liable to pay any rebate, overrider or fee which is invoiced after this time period has expired.
- 5.9. Where any financial incentive, fee, allowance, rebate, support payment or similar amount is payable by Sysco to the Customer and is to be paid by way of a credit note (a "Financial Incentive"), the Customer shall, as a condition precedent to the issue of such credit note, raise and issue to Sysco a valid VAT invoice for the relevant Financial Incentive. No credit note shall be applied unless and until Sysco has received such invoice.
- 5.10. Where any Financial Incentive is being paid in the form of a credit, the VAT applied to the original invoice will remain unchanged on the basis that the Customer is VAT-registered and entitled to reclaim input VAT on all goods and services supplied by Sysco. The Customer must promptly notify Sysco of any change to its VAT registration status, including deregistration or becoming partially exempt.
- 5.11. Sysco may, at its absolute discretion offer rebates, discounts, allowances or credits to the Customer. Any such rebates discounts, allowances, or credits offered by Sysco are subject to and contingent upon, compliance by the Customer and any Affiliate of the Customer (in respect of affiliated accounts) with these Terms and Conditions, and/or any other commercial terms or payment or credit terms agreed between the Customer and Sysco.

6. DELIVERY

- 6.1. Deliveries of Products to the Customer shall be in accordance with Sysco's delivery schedule. Sysco shall not be liable for any loss or damage whatsoever arising as a result of a delay or failure to deliver Products by a particular date. Time for delivery shall not be of the essence.
- 6.2. Delivery of Products shall be made by Sysco to a reasonably accessible location at the Customer's premises, or as otherwise agreed between the parties ("**the Delivery Location**"). The Customer shall allow Sysco access to such premises and shall use best endeavours to ensure that a responsible authorised person shall be at the place of delivery to take delivery of the Products and to sign for them. If such a person is not present at the time of delivery the Customer hereby consents to Sysco leaving the Products at what appear to be the premises nominated by the Customer as the place of delivery, and when the Products are so left, risk in the Products shall pass to the Customer and no liability shall remain with Sysco in respect of the Products.
- 6.3. Delivery of the Products shall be completed once the Products are unloaded at the Delivery Location.
- 6.4. If the Customer fails to take delivery or fails to give Sysco adequate delivery instructions at the time stated for delivery then without prejudice to any other right or remedy available to Sysco, Sysco may do one or more of the following:
 - 6.4.1. charge the Customer the cost of carriage of the refused delivery both to and from the Delivery Location in addition to Sysco's administration charges involved;
 - 6.4.2. charge the Customer the full cost price of the Products and a sum in respect of its loss of profit provided that Sysco shall use its reasonable endeavours to mitigate such loss;
 - 6.4.3. where the delivery includes Equipment, store the Equipment until actual delivery and charge the Customer for the reasonable cost of storage (including insurance);

- 6.4.4. sell the Equipment and charge the Customer for any shortfall below the price under the Contract.
- 6.5. If the Customer fails to take delivery or fails to give Sysco adequate delivery instructions at the time stated for delivery, the Customer shall not be entitled to refuse to accept redelivery after the estimated date for delivery by reason of the consequent failure of those Products to meet any shelf-life requirement or otherwise.
- 6.6. In respect of alcohol products, bladed items (such as knives) and corrosive chemicals, all items must be signed for by an adult aged 18 years or over. If no one of that age is available to sign at the point of delivery, the Products will be retained by the driver and returned to Sysco.
- 6.7. Sysco may deliver the Products by instalments, which shall be invoiced separately. Any delay in delivery shall not entitle the Customer to cancel any order or any instalment.
- 6.8. Where the Customer collects Products from Sysco's premises, the Customer agrees to be solely responsible for the transportation of such Products in a manner that provides appropriate temperature and sanitary protection for the Products and in compliance with all applicable laws and regulations. In the event of any claims or charges of any kind against Sysco related to transportation of Products after being collected from Sysco's premises, the Customer shall fully defend and indemnify Sysco.

7. ACCEPTANCE AND CLAIMS PROCEDURE

- 7.1. The Customer must check that the quantity and specifications of Products delivered correspond with the Contract before signature of the delivery note.
- 7.2. Claims in respect of short deliveries or damage to Products reasonably visible on inspection must be made to Sysco within 24 hours of the time of the delivery which gives rise to the claim. The Customer must retain damaged Products for inspection and collection. Credit will only be granted by Sysco if the provisions of this Clause are complied with.

8. CANCELLATION OF AN ORDER

An order may not be cancelled by the Customer without the written consent of Sysco. Sysco reserves the right upon consent being given to levy a cancellation charge of not less than 20% of the Products which are the subject of the order (or orders) to cover Sysco's losses arising from the cancellation. Nominated Products and Sourced Products ordered on behalf of the Customer cannot be returned, unless the manufacturer agrees to accept them. Where this is not the case the Customer shall purchase all such Nominated Products and Sourced Products from Sysco within 14 days.

9. INSOLVENCY OF CUSTOMER

In the event that:

- 9.1. the Customer makes any voluntary arrangement with its creditors, proposes to enter into a company voluntary arrangement, enters into administration, is unable to pay its debts as they fall due, makes application to a Court to suspend enforcement action against it, goes into liquidation (in the event that the Customer is a company) or becomes insolvent, enters into a trust deed or voluntary arrangement for the benefit of its creditors (in the event that the Customer is an individual or firm), or if the equivalent occurs under any jurisdiction; or
- 9.2. an encumbrancer takes possession of, or a receiver or administrative receiver is appointed over, any of the property or assets of the Customer; or
- 9.3. the Customer suspends any payments hereunder or ceases, or threatens to cease, to carry on business; or
- 9.4. Sysco reasonably considers that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly;

then without prejudice to any other rights or remedies available to Sysco, Sysco shall be entitled forthwith to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer and if the Products have been delivered but not paid for, the price shall become immediately payable notwithstanding any previous agreement to the contrary.

10. WARRANTIES

- 10.1. Sysco warrants that all Products (with the exception of Nominated Products in respect of which Sysco's complete responsibility is set out in Clause 13) shall comply with all applicable food safety, consumer protection, and product safety legislation from time to time in force in the United Kingdom, including, where applicable, the Food Safety Act 1990.
- 10.2. Sysco gives no warranties in respect of the Equipment. Sysco will, to the extent that it is able, at the sole cost and expense of the Customer, assign or make available to the Customer the benefit of any warranties or guarantees relating to the Equipment obtained from the manufacturer thereof.
- 10.3. The Customer shall ensure that no Product it purchases from Sysco is sold (or otherwise distributed) after any 'best-before' or 'use-by' dates included on the Products or their packaging. To the extent any Product is sold (or otherwise distributed) by the Customer after any such date, it shall be at the Customer's sole risk, and the Customer shall compensate and hold Sysco harmless against any losses, claims, expenses or damages it incurs howsoever relating to the same.

11. LIMITATION OF SYSCO'S LIABILITY

- 11.1. Nothing in these Terms and Conditions shall limit or exclude Sysco's liability for: (i) death or personal injury caused by Sysco's negligence; (ii) fraud or fraudulent misrepresentation; or (iii) for any other matter in respect of which it would be unlawful for Sysco to exclude or limit liability.
- 11.2. Subject to Clauses 11.1 and 11.3:
 - 11.2.1. Sysco shall under no circumstances be liable to the Customer, whether in contract, tort (including negligence) or otherwise, for any loss of profit, loss of opportunity, loss of customers, loss of reputation or any indirect or consequential loss arising under or in connection with the Contract;
 - 11.2.2. in respect of damaged or otherwise defective Products, Sysco's liability shall be limited to either (i) replacing the whole or any part of the respective Product, or (ii) crediting the purchase price (or a prorated portion of the purchase price) to the Customer's account;
 - 11.2.3. in all other circumstances, Sysco's total liability to the Customer in respect of all other losses arising under or in connection with a Contract shall in no circumstances exceed:
 - 11.2.3.1. where the Contract relates to an individual order, the value of that order; or
 - 11.2.3.2. where the Contract does not relate to an individual order, the sum of £50,000.
- 11.3. Subject to Clause 11.1, Sysco shall not be liable for any losses, expenses, claims or damages suffered or incurred by the Customer (or any third party):
 - 11.3.1. to the extent they arise as a consequence of any damage or defect in a Product which was caused by its unsatisfactory storage, treatment or handling (other than by Sysco or its representatives) or any act or omission on the part of the Customer or its employees, agents or representatives;

- 11.3.2. relating to damaged or defective Products where the damage or defect ought reasonably to have been noticeable at the time of delivery, and the damage or defect is not reported to Sysco in accordance with Clause 7;
- 11.3.3. claims not notified to Sysco within 3 months of the respective invoice (or, if later, when the Customer became aware, or ought reasonably to have become aware, of the claim).

12. INTELLECTUAL PROPERTY

- 12.1. Copyright and all other intellectual property rights in the Products shall remain at all times the property of Sysco. The Customer shall acquire no rights in the Products except as expressly provided for in these Terms and Conditions.
- 12.2. The Customer may not reproduce, copy, duplicate, transmit, publish, display, distribute or sell any material from Sysco websites. The Customer may not use Sysco websites or their content for any commercial purpose (including the collection and use of any listings, descriptions, or prices), make any derivative or commercially exploitative use of the websites or their content, download or copy account information, use any data mining, robots or similar data gathering and extraction tools without the explicit written consent of Sysco. Any unauthorised use terminates any permissions granted.

13. NOMINATED PRODUCTS

In the event that any of the Products to be supplied under the Contract are Nominated Products, the Customer shall be required to provide Sysco with complete and accurate information regarding the Nominated Product and the supplier thereof, whether by completing Sysco's Nominated and Sourced New Line Form or in the format otherwise prescribed by Sysco from time to time, and the following additional provisions shall apply:

- 13.1. The Customer shall be responsible for agreeing directly with the suppliers of Nominated Products all matters concerning Nominated Products including the specification and delivery conditions. Sysco shall have no responsibility for the selection of any supplier of Nominated Products or for their performance. The Customer shall provide Sysco with full details of all suppliers of Nominated Products in order for Sysco to fulfil its obligations under the Contract. The Customer shall be responsible for forecasting its requirements for any new Nominated Products for the first 6 weeks.
- 13.2. Where Sysco has agreed to purchase Nominated Products, Sysco shall purchase Nominated Products from suppliers at the price agreed with the suppliers by the Customer and on the basis of Sysco's procurement terms and conditions of purchase (including any documents referred to in those terms) from time to time in force. For the avoidance of doubt, Sysco will not be liable to pay the nominated supplier for Nominated Products unless and until it has received full payment in cleared funds from the Customer in respect of such Nominated Products. Where the Customer has made only part payment of total amounts invoiced by Sysco, monies received will be allocated first to the payment of Sysco's wholesale product debt and then to Nominated Product stock ordered on the Customer's behalf. For the avoidance of doubt, in no circumstance will Sysco be liable to pay the supplier of Nominated Products for such Nominated Products except as set out in Clause 13.2 above, including, but not limited to, where a deterioration of the Customer's financial situation or its insolvency leaves it unable pay its invoices in full to Sysco and Sysco is holding stock of Nominated Products. Where the Customer has failed to order or pay for Nominated Product stock for any reason and Sysco is holding stock of Nominated Products, the supplier will be offered the opportunity to collect the Nominated Product stock from Sysco, or alternatively will instruct Sysco to dispose of such Nominated Products at the supplier's expense.

- 13.3. The Customer will indemnify and hold harmless Sysco in respect of any liability, claims, or losses arising in connection with Nominated Product stock held by Sysco, including where Sysco withholds payment in accordance with Clause 13.2. The Customer acknowledges and agrees that the stock volume that Sysco holds from time to time will be dictated by the Customer's own forecasts, and their nominated supplier's minimum order quantities and lead times.
- 13.4. Subject to the Customer accurately providing all the required information in accordance with this Clause 13, Sysco shall endeavour to set up a new Nominated Product within 28 days of receiving a completed Nominated and Sourced New Line Form. For the avoidance of doubt, once set up Sysco shall be able to place orders with the nominated supplier and begin to arrange for stock to be brought into its network. The Customer shall provide Sysco with a price file for each supplier of a Nominated Product showing the relevant cost. Any variation to the cost price of Nominated Products will only be accepted by Sysco on submission of an agreed price change form from the Customer and with a minimum of 14 days' notice.
- 13.5. If the Customer no longer requires any particular Nominated Product (a "**Delisted Product**"), it shall give Sysco not less than 14 days' notice of the Delisted Date.
- 13.6. The Customer shall be responsible for ensuring that all Nominated Products, when delivered to or collected by, Sysco, shall conform with all applicable food safety, consumer protection, and product safety legislation from time to time in force in the United Kingdom and Sysco shall have no liability to the extent that this is not the case. The Customer shall be responsible for ensuring that the Nominated Products are sourced from reputable suppliers who have achieved a nationally recognised product safety standard or have been formally assessed by the Customer as acceptable on product safety, legality, and integrity grounds.
- 13.7. The Customer shall procure the agreement of the supplier of Nominated Products to Sysco's standard terms and conditions of purchase, Sysco's Supplier Code of Conduct and to any technical or operational requirements document provided by Sysco.
- 13.8. Sysco shall be entitled to charge the Customer in respect of the ordering, stocking, distribution and delivery of the Nominated Products. Sysco shall be entitled to adjust any such on-cost charge or case rate at its sole discretion.
- 13.9. Unless otherwise agreed, Sysco shall arrange for Nominated Products to be delivered into its depots for onward delivery by Sysco to the Customer. Sysco shall not be obliged to carry out any checks or quality control inspections in relation to Nominated Products and Nominated Products are sold by Sysco to the Customer on this basis.
- 13.10. The Customer acknowledges and agrees that the inability of Sysco to perform any part of the Contract by reason of the performance deficiencies of any of the suppliers of Nominated Products shall not be deemed to be a breach of the Contract by Sysco, and that, in such circumstances, the Customer will pursue its remedies directly against the defaulting supplier of the Nominated Product and no such performance deficiencies shall be counted in the calculation of any service levels agreed between Sysco and the Customer.
- 13.11. Sysco shall not be responsible for any costs resulting from shelf-life expiry, waste, discontinuance of stock, or unordered stock of Nominated Products. In any of these events, Sysco may charge the Customer the full selling price of such Nominated Products in addition to any disposal or return costs.
- 13.12. Sysco may refuse to list, or remove from its network, any Nominated Product at any time by providing notice in writing to the Customer. Sysco will only be able to consider requests for Nominated Products where such products fall within the scope of Sysco's normal foodservice, non-food and related product distribution activities and where, in Sysco's discretion, their

storage, handling, transportation and delivery are operationally possible within its existing delivery network.

- 13.13. If applicable, the nominated suppliers shall be responsible for Sysco's consolidation charges payable in respect of the storage, handling and picking of the Nominated Products whilst in Sysco's consignment warehouse.
- 13.14. Sysco may in its sole discretion delist any Nominated Product where the Customer's requirement for such Product falls below 20 cases per week.
- 13.15. Sysco reserves the right to add any Nominated Product as a Listed Product to its wholesale range and release it for sale to its wholesale customer base, provided that such Nominated Product is not branded with any name, trading style or logo belonging to the Customer.

14. SOURCED PRODUCTS

- 14.1. In the event that any of the Products to be supplied under the Contract are Sourced Products, the Customer shall be required to complete a Nominated and Sourced New Line Form and the Customer shall be responsible for forecasting its requirements for any new Sourced Products for the first 6 weeks (or such longer period as is required by Sysco).
- 14.2. Recognising that Sysco may have sourced such Sourced Products solely to meet the requirements of the Customer, the Customer shall be responsible for any costs resulting from shelf life expiry, waste, discontinuance of stock or unordered stock of the Sourced Products. In any of these events, Sysco may charge the Customer the full selling price of such Sourced Products in addition to any disposal or return costs.

15. BESPOKE PRODUCTS

- 15.1. With regard to any Bespoke Products, the Customer shall be responsible for forecasting its requirements. Sysco will hold such stock as is necessary taking into account the Customer's forecasted requirements and the lead times and/or minimum order quantities required by Sysco's own suppliers and/or growers. The supply of Bespoke Products will be subject to Sysco's production schedule.
- 15.2. The Customer shall give a minimum of 3 months' notice prior to delisting any Bespoke Product (or such other notice period as may be agreed in advance by Sysco in writing).
- 15.3. Sysco shall not be responsible for any costs resulting from shelf-life expiry, waste, discontinuance of stock, over-stock or unordered stock of Bespoke Products. In any of these events, Sysco may charge the Customer the full selling price of such Bespoke Products in addition to any disposal or return costs.

16. FORCE MAJEURE

"Force Majeure Event" means an event beyond the reasonable control of Sysco and includes, without limitation, any failure or delay on the part of a supplier to supply Products and/or services; acts of God; expropriation or confiscation of facilities; any form of Government intervention; war, hostilities, rebellion; terrorist activity; pandemic; local or national emergency; sabotage or riots; industrial action; floods, fires, explosions or other catastrophes; closure of motorways or other roads, or unusually severe traffic congestion (including closure or delay at borders), leaving no reasonable alternative route; unusually severe weather conditions; loss of power or telecommunications systems; or computer failure or breakdown.

Sysco shall not be liable for any failure or delay in the performance of its obligations under the Contract to the extent caused by a Force Majeure Event. Sysco reserves the right to defer the date of delivery or reduce the volume of Products ordered by the Customer or to cancel the Contract without liability to the Customer if it is prevented from or delayed in the carrying out of its obligations under the Contract due to a Force Majeure Event. Sysco may make adjustments to the pricing and/or other

financial terms relating to supply of the Products, to take into account the financial impact of any Force Majeure Event on Sysco.

17. CONFIDENTIALITY

- 17.1. The Customer undertakes that it shall not at any time disclose any confidential information concerning the business, affairs, customers, suppliers, manufacturers, supply chain, pricing or other financial information of Sysco to any third party whatsoever.
- 17.2. The Customer may disclose Sysco's confidential information (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out its obligations to Sysco under the Contract, provided that such employees, officers, representatives and advisors to whom the Customer discloses such information comply in full with this Clause; and (ii) as may be required by law, court order or any government or regulatory authority, provided that the Customer gives as much advance notice of such disclosure to Sysco, as possible.
- 17.3. The Customer shall not use Sysco's confidential information for any purpose other than to perform its obligations under the Contract. For the avoidance of doubt, the Customer shall not make use of the confidential information for its own commercial benefit outside of the Contract, for example by approaching or entering into a supply agreement (whether directly or indirectly) with any supplier or manufacturer to Sysco whose details have been disclosed to the Customer pursuant to the Contract.
- 17.4. Where the Customer purchases from Sysco via a buying group or consortia ("**Buying Group**"), the Customer consents to Sysco supplying to the Buying Group information relating to the Customer's purchases, its account and payment history, or any other information requested by the Buying Group in connection with the Customer's trading relationship with Sysco. The Customer also consents to Sysco sharing confidential information with other entities within Sysco's group, including parents, subsidiaries or Affiliates of Sysco.

18. ERECTION AND INSTALLATION

Where erection, installation and positioning of Equipment are part of the Contract the Customer shall ensure that the site is clear and ready for installation. Should the site not be ready as stipulated for such installation, Sysco reserves the right to make a charge for any costs incurred as a result of it being so prevented and any delay or subsequent installation.

19. DATA PROTECTION

- 19.1. "**Data Protection Legislation**" shall mean the UK Data Protection legislation and any other European Union legislation (including the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018) and all other applicable legislation and regulatory requirements relating to Personal Data in force from time to time.
- 19.2. Both parties will comply with all applicable requirements of the Data Protection Legislation.
- 19.3. The parties acknowledge that for the purposes of the Data Protection Legislation, both parties may be a Controller and/or a Processor of Personal Data and both parties agree to only process Personal Data on the instructions of the Controller (as agreed from time to time) in the pursuance of, and to the extent and duration of, Sysco supplying Products and/or services to the Customer.
- 19.4. The Customer will ensure that it has all necessary and appropriate consents and notices in place to enable the lawful transfer of the Personal Data to Sysco.
- 19.5. The Customer consents to Sysco appointing any third-party processor of Personal Data under the Contract. Sysco confirms that it has entered or, as the case may be, will enter into a written

agreement with the third-party processor incorporating terms to comply with Data Protection Legislation.

20. ANTI-FACILITATION OF TAX AVOIDANCE

- 20.1. The Customer shall:
- 20.1.1. not engage in any activity, practice or conduct which would constitute either:
 - 20.1.1.1. a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
 - 20.1.1.2. a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
 - 20.1.2. have and shall maintain in place throughout the term of the Contract such measures as are reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Customer); and
 - 20.1.3. promptly report to Sysco any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of the Contract;
- 20.2. The Customer shall ensure that any person associated with the Customer who is performing services in connection with the Contract does so in compliance with obligations equivalent to those imposed on the Customer in Clause 20.1 (“**Relevant Tax Evasion Terms**”). The Customer shall be responsible for the observance and performance by such persons of the Relevant Tax Evasion Terms, and shall be directly liable to Sysco for any breach by such persons of any of the Relevant Tax Evasion Terms.
- 20.3. For the purposes of Clause 20.1, the meaning of reasonable prevention procedures shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Customer includes but is not limited to any subcontractor of the Customer.

21. ADDITIONAL TERMS

- 21.1. Failure or delay on the part of Sysco in enforcing any provision of the Contract shall not be construed as a waiver of any of Sysco’s rights under the Contract. Any waiver by Sysco of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed to be a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract. The rights and remedies of Sysco under the Contract are cumulative and are without prejudice to, and shall not exclude or limit, any other rights or remedies available to Sysco under the Contract or at law
- 21.2. If any provision of the Contract is found by any Court, tribunal or other administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 21.3. Sysco may make available certain promotions from time to time. The Customer shall be bound by any additional terms that apply to any promotions and the Customer shall be responsible for ensuring the Customer contact registered to receive the promotion is correct and updated accordingly from time to time.
- 21.4. Where available, Sysco may provide the Customer with an online account, through which the Customer will be able to place and manage its orders and to find out about relevant promotions that are available to the Customer. This online account will allow the Customer

to be better informed about the status of orders and, over time, Sysco may add other features to help its Customers to manage contact details, account information and to track its orders. Order confirmations will be e-mailed to the Customer when orders are placed (or amendments to the order are agreed). Where the Customer has an online account, it is the responsibility of the Customer to ensure its account details remain up to date and accurate. Access to the Customer's online account will be subject to Sysco's website terms of use and acceptable use policy. Sysco reserves the right to refuse the service, terminate accounts or remove or edit content or functionality at any time.

- 21.5. In the event that the Customer employs (or terminates) the services of a procurement consultant, or joins (or leaves) a GPO or Buying Group, Sysco reserves the right to adjust the Customer's pricing and/or any other commercial terms in place. The Customer acknowledges and agrees that, where it trades via a GPO or Buying Group, a rebate, override or similar payment may be payable by Sysco to the GPO or Buying Group as consideration for the procurement, negotiation or other services provided by the GPO or Buying Group on the Customer's behalf.
- 21.6. The Customer is obliged to provide Sysco with all reasonable assistance and cooperation in the event of any recall of a Product due to a quality or safety issue.
- 21.7. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other, or authorise either party to make or enter into any commitments or representations on behalf of the other. Neither party shall have any authority to bind the other in any way.
- 21.8. Telephone calls (inbound and outbound) and email correspondence with Sysco may be recorded or monitored. By using or accepting such communication methods, the Customer agrees to the recording or monitoring of the same for quality purposes and training.
- 21.9. Sysco, but not the Customer, may assign its rights and obligations under the Contract.
- 21.10. Any written communication given pursuant to the Contract must be sent by pre-paid first class post to the registered office of the addressee or such other address as may have been notified in writing and shall be deemed to have been received by the addressee two days after the date of posting.
- 21.11. The parties to the Contract do not intend that any term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 21.12. The Customer shall be liable to comply with the terms of the Contract and pay for any Products which are ordered using its Customer account number.
- 21.13. If the Customer is a partnership the liability of the individual partners to Sysco shall be joint and several.
- 21.14. The signature on behalf of a Customer who is a limited company by any person purporting to sign with the Customer's authority shall bind the Customer and the Customer shall be liable to comply with the terms of the Contract.
- 21.15. Sysco reserves the right to amend these Terms and Conditions from time to time by posting updated versions on its website.
- 21.16. The Contract shall be governed by the laws of England and Sysco and the Customer agree to submit to the exclusive jurisdiction of the English Courts.