

**LACTALIS-MAINLAND DAIRY**  
STANDARD TERMS OF SALE  
AUSTRALIA

Effective 1 April 2026



**1. WHAT THESE TERMS COVER**

1.1 These terms and conditions of sale set out the basis on which we sell Products and Services to you. They apply to every order you place with an LMD Company, and every price list, quotation and proposal we may give you (**Terms**).

1.2 If there is a separate written agreement between you and us and there is any inconsistency or conflict between that agreement and these Terms, the terms of that agreement override these Terms to the extent of that inconsistency.

1.3 Subject to 1.2, these Terms supersede and exclude all prior or subsequent discussions, representations, terms or conditions of trade, all prior written or oral agreements and understandings between us and you and any other terms and conditions which you seek to apply to the supply of Products or Services by us to you, whether by way of incorporation into your order or otherwise.

**2. QUOTATIONS, DESCRIPTIONS AND PURCHASE ORDERS**

2.1 Our quotations are not offers to supply or Deliver Products or Services. We may amend or withdraw quotations at any time. If you wish to buy Products or Services, you must place an order within the timeframe stated in the quotation. If the quotation is given without specifying a timeframe, then the quotation automatically lapses 48 hours after we send it.

2.2 All descriptions, samples and information (including in quotations, catalogues or advertising material) are General Advice and approximations only. They do not form part of these Terms unless we agree in writing.

2.3 To the maximum extent permitted by law:

- (a) we do not represent, warrant or guarantee the accuracy or completeness of General Advice, or the results obtained using the Products or application of the Services;
- (b) we expressly disclaim any liability for any damage to you from reliance on General Advice;
- (c) General Advice must not be relied on by you and if you do so, it is at your own risk; and

(d) you must make other appropriate enquiries to verify any General Advice having regard to your circumstances.

2.4 Unless otherwise agreed in writing, all descriptions, samples and information about goods or services provided by us to you (including in quotations, catalogues or advertising material) are approximations only and the actual Product or Service Delivered may differ in a way that does not cause material loss to you.

2.5 Your orders must be in writing and include a full description of your request for the Products or Services, the requested date and location for Delivery, and a unique order number that is reasonably acceptable to us. If you do not:

- (a) nominate a location for delivery that we accept, the Agreed Basis will apply; or
- (b) request a date or timeframe for delivery that we accept, we will Deliver within three months of the date we notify you of our acceptance of your order.

2.6 An order is only binding on us when we accept it in writing. We need not accept any order. Each order by you is an offer to us to buy Products or Services subject to these Terms.

2.7 We may accept your order in whole or in part and will advise where and when Delivery will occur (considering, but not being bound by, any requests in your order) and the applicable price.

2.8 You cannot cancel or amend an order after you have sent it to us, unless we agree in writing. We may charge reasonable administration fees or require you to agree to other reasonable terms as a condition of us giving our consent.

**3. DELIVERY**

3.1 Nothing in this clause 3 excludes, limits or modifies any statutory right, obligation or liability you have, to the extent that doing so would contravene that statute or cause any part of clause 3 to be void.

3.2 We do not Deliver on a consignment or similar basis. We will use all reasonable efforts to Deliver all Products or Services to you in accordance with 2.5 and 2.7 and

- in the minimum number of loads required to fulfil that Delivery. Dates or timeframes specified for Delivery are not of the essence. If Delivery to the agreed place or time becomes commercially impractical for us, we may propose another reasonable place or time and will take your legitimate business requirements into account. If you reasonably consider that the proposed change would cause you material loss and we cannot agree an alternative within a reasonable time, you may cancel the affected part of the order without charge. Except in relation to any Non-excludable Obligations, we are not liable for any loss or damage (including Consequential Loss) caused by or resulting from a Delivery delay of up to 10 days, by split or multiple Deliveries, or by Force Majeure.
- 3.3 If you do not accept Delivery when we arrange it (including if you refuse all or part of a Delivery or delay in receiving it), we may resell or resupply the Products or Services you did not accept to someone else. You must pay any loss we reasonably incur on that resale or resupply and all reasonable and properly incurred costs of storage, Delivery, logistics and other costs to the extent they arise from your refusal or delay. This does not change your obligation to pay for any Products or Services you accept. If any Products become damaged or unsaleable because you did not accept Delivery (**Damaged Products**), you indemnify us for all reasonable and properly incurred costs and expenses we incur in dealing with those Damaged Products, including transport and disposal, to the extent the damage results from your refusal or delay and not from our negligence or breach of these Terms.
- 3.4 You must check all delivered quantities against the delivery documentation and:
- (a) if credit terms apply, if you do not dispute it within 2 days, we are entitled to rely on that documentation in issuing tax invoices; and
  - (b) if 'cash on delivery' applies, you are deemed to accept that the quantity is correct at the time of payment.
- 3.5 You must inspect all Products other than LBP on Delivery and notify us in writing within 2 days of any claimed defects or other dispute.
- 3.6 For each proposed Delivery of LBP, unless we agree otherwise in writing:
- (a) before Delivery, you must at your cost, obtain two separate samples of the LBP from the delivery vehicle, Receptacle or despatching facility, separately maintain those samples appropriately, and conduct the Pre-Test on one of them;
  - (b) except where 3.7 applies, you must at your cost give us the results within 12 hours of the Pre-Test;
  - (c) even if 3.7 applies, you must at your cost, test one sample at a testing laboratory that has been approved by us in writing within 24 hours of the sample being taken;
  - (d) you must (at your cost) make available any sample for further testing if we request it; and
  - (e) regardless of the result of the Pre-Test, no later than 24 hours after Delivery, you must at your cost conduct a Post-Test on the second sample obtained under (a) no later than 24 hours after Delivery and give us the results within 12 hours of the Post-Test.
- 3.7 If the LBP fails the Pre-Test, you may reject that LBP and not accept Delivery of it provided that if you do so, you must provide the driver or representative of the despatching facility (as applicable) with a copy of the test results. If you do not, you are deemed to have agreed that the LBP satisfied the Pre-Test.
- 3.8 If you do not notify us of any dispute or defect within the relevant timeframe set out in 3.4 to 3.6, the relevant Products are deemed to have been Delivered by us and accepted by you in compliance with these Terms (including being deemed to have passed both the Pre-Test and the Post-Test) and any additional terms and conditions that you and we expressly agree apply to them.
- 3.9 Related Services are deemed to have been performed when the Products are

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- Delivered (or deemed to be Delivered).
- 3.10 Unless we tell you otherwise in writing, any Receptacle we use for Delivery remains our property. You must return all Receptacles to us at your cost or replace them if they are lost, damaged or not returned within 7 days, except to the extent the loss or damage is caused by our negligence or breach of these Terms. If you do not do this, you indemnify us for all reasonable and properly incurred costs and expenses we incur in dealing with those Receptacles, including any amounts we must pay third parties. You must keep all Receptacles secure and in good condition and handle them in line with all food and health requirements until we collect or receive them back.
- 4. RISK AND TITLE**
- 4.1 Risk in the Products and Services passes to you when they are Delivered, unless we agree otherwise in writing.
- 4.2 Title in all Products remains with us until you pay us in full for all Products and Services Delivered by us.
- 4.3 We may insure Products up to the time of Delivery or the passing of title to you, but you must not assume that we will take out or maintain any such insurance.
- 4.4 Until we receive payment in full for all Products and Services (together with any interest under these Terms) you:
- (a) hold all Products as our bailee and a fiduciary relationship exists between us and you for this purpose; and
  - (b) must keep the Products stored separately from all other goods and keep the Products insured for replacement cost and identified (in a way that is obvious to others) as our property, except where the Products that are incorporated, processed or commingled with other goods.
- 4.5 Until title in the Products passes to you, we may direct you to return the Products to us. If you do not, you irrevocably authorise us to enter your or a third-party's premises where the Products are stored, using your name and acting on your behalf to repossess them, but only to the extent permitted by law. You must ensure that all third-party premises you use to store the Products allows us to do this or to exercise rights under clause 6.4(c)(iii).
- 4.6 Even if title has not passed to you, you may on-sell the Products, including any goods into which the Products have been incorporated, processed or commingled, in an arm's length transaction, during the ordinary course of your business and at market value to a bona fide unrelated third-party. However, any proceeds or amount payable from the sale are held by you as a fiduciary and on trust for us to the extent of the amount you owe us for all Products and Services Delivered by us, without further need for tracing or identifying the specific proceeds.
- 5. PRICE AND TAXES**
- 5.1 Unless we have agreed a fixed price, fee or basis for determining the price in writing with you by the time we accept your order, our list prices and fees at the time of Delivery apply.
- 5.2 All prices and amounts in these Terms are expressed before GST is added. All amounts or other consideration payable to us for any taxable supply we make will be increased by an amount equal to any GST that we are or will become liable to pay in respect of that supply so that we retain after payment of GST the amount which we would have been entitled to receive but for our obligations to pay GST.
- 5.3 If you or we are required to pay the other by way of a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by the other, then the payment will be reduced by the amount of any input tax credit to which that other is entitled for that loss, cost or expense.
- 5.4 If a Sales Tax other than GST applies in respect of any Delivery, you are liable for it and must pay it provided that if the law requires that we pay it then the same principles as are set out in clauses 5.2 and 5.3 will apply as if the Sales Tax were GST.
- 6. INVOICING, PAYMENT AND DEFAULT**
- 6.1 Without limiting 3.4, we will give you a tax invoice for the price and fees applicable by the time of Delivery.
- 6.2 You must pay all tax invoices in full and without deduction, set-off or

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- counterclaim. An amount outstanding will not be satisfied until payment is received in full. You must give us written notice within 14 days of receiving our tax invoice if you believe that the invoice is not correct. Your notice must include full details of any error claimed by you. If an invoice is disputed and that dispute cannot be immediately resolved, we may withhold or defer any future Delivery (in whole or in part) pending resolution of the dispute. You must make payment of the undisputed amount due on any disputed invoice on the due date. Once the dispute is resolved, you must make payment of the resolved amount to us within 7 days.
- 6.3 You must pay all tax invoices on receipt, unless you and we have agreed to separate credit terms.
- 6.4 If you:
- (a) default in any payment due to us (including under these Terms) or we reasonably believe that you are unlikely to be able to pay your debts as and when they fall due; or a receiver, receiver and manager, controller, trustee or other insolvency administrator is appointed; or a scheme of arrangement is proposed or approved in respect of you or a mortgagee enters into possession of any of your assets or any analogous situation occurs; or
  - (b) you are otherwise in material breach of these Terms or the terms and conditions of any credit we extend to you (including where you exceed your credit limit with us) or any other agreement between you and us,
- then you must promptly pay to us the amount of all costs incurred by us in enforcing our rights under this agreement because of your default or breach and without prejudice to any other action or remedy which we have or might otherwise have had; and
- (c) we may, at our sole discretion do any or all of these:
    - (i) without prior notice, suspend, withhold or delay any further proposed deliveries (in whole or in part) or reject, cancel or defer performance of any order (whether we have accepted or not, and in whole or in part);
    - (ii) amend or place additional conditions or requirements to reinstate your credit terms including requiring additional guarantees or security, lowering credit limits or reducing credit periods;
    - (iii) reclaim all or any Products in your possession or under your control and recover from you all costs of doing so;
    - (iv) by notice to you, immediately suspend or terminate any and all rights that you may have to place further orders under these Terms (without limiting our discretion as to whether we accept any order placed by you); and
    - (d) all amounts owed and outstanding by you to us on any account become immediately due and payable (without the requirement for notice from us) and you must pay for any subsequent Deliveries as 'cash on delivery'.
- We will not be liable to you for any loss, harm, damage, cost or expense (including legal fees) or Consequential Loss you suffer or incur because we exercise any of our rights under this clause 6.
- 6.5 You must promptly respond to any enquiry or notice from us related to a matter in 6.4.
- 6.6 Without limiting our right to require payment in full on the due date, we may charge you interest on overdue accounts at the rate that is 2.0% per annum above the rate charged by the Commonwealth Bank of Australia from time to time on corporate overdrafts. Interest will accrue daily and be capitalised monthly from the due date until payment has been received by us in cleared funds. Payments will be applied first to interest accrued or capitalised and then to the overdue

- amount.
- 6.7 Without limiting 6.4, any debt collection charges, legal expenses (calculated on a full indemnity basis), commissions or any other expenses incurred by us in attempting to recover from you any payment due to us (including any interest under 6.6) is payable by you on our demand. These amounts will incur interest at the same rate and on the same terms as are set out in 6.6 from the date of our demand until payment has been received by us in cleared funds.
- 6.8 If you owe us money in connection with these Terms and we owe you any money, we may set off the amount you owe us against the amount that we owe you and pay you the resulting net amount or seek payment from you of the net amount, as appropriate.
- 7. OUR WARRANTIES AND LIMITATION OF OUR LIABILITY**
- 7.1 Notwithstanding anything to the contrary in these Terms, to the extent that you acquire goods or services from us as a consumer within the meaning of the Australian Consumer Law, you may have certain rights and remedies (including consumer guarantee rights) that cannot be excluded, restricted or modified by agreement.
- 7.2 Nothing in clause 7 operates to exclude, restrict or modify the application of any implied condition or warranty provision, the exercise of any right or remedy or the imposition of any liability under the Australian Consumer Law or any other statute where to do so would:
- (a) contravene that statute; or
  - (b) cause any part of these Terms to be void, **(Non-excludable Obligation)**.
- 7.3 Except in relation to Non-excludable Obligations, all conditions, warranties, guarantees, rights, remedies, liabilities or other terms that may be implied by custom, under the general law or by statute are expressly excluded.
- 7.4 Except in relation to Non-excludable Obligations, our liability to you arising directly or indirectly under or in connection with these Terms or the performance or non-performance under these Terms and whether arising under any indemnity, statute, in tort (for negligence or otherwise), or on any other basis in law or equity is limited as follows:
- (a) we will have no liability whatsoever to you for Consequential Loss; and
  - (b) the aggregate of our liability to you is limited to an amount not exceeding the amount paid or payable by you to us for the relevant Products or Services.
- 7.5 In relation to Non-excludable Obligations (other than a guarantee as to title, encumbrances or quiet possession conferred by the Australian Consumer Law and except for goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption (in respect of which our liability is not limited under these Terms)), our liability to you for a failure to comply with any Non-excludable Obligation is limited to:
- (a) in the case of Services, the cost of supplying the Services again or payment of the cost of having the Services supplied again; and
  - (b) in the case of Products, the cost of replacing the Products, supplying equivalent Products or having the Products repaired or reworked, or payment of the cost of replacing the Products, supplying equivalent Products or having the Products repaired or reworked.
- 7.6 You acknowledge and agree that you have the burden of proof for claims of non-delivery or defects in Delivery, Products or Services.
- 7.7 You undertake to promptly inform us if you believe that any Product or Service is defective due to conduct for which we are responsible and in doing so must set out as much information as you have concerning the basis for your belief. You must keep the relevant Product stored separately from all others and in the state or condition in which they were Delivered to you until we have an opportunity to inspect them. You must provide all assistance that we reasonably request to determine whether your belief is correct and, if we accept that we are responsible for the defective Product or Service then you must destroy the affected Products

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- or deliver them up to us on our request.
- 7.4 then applies in respect of the Products and Services.
- 7.8 We are not liable for any loss, defect or damage to Products or Services unless you advise us of such within the timeframes provided in these Terms, including in your notice full details of the Products and/or Services, the alleged defect and all documents associated with your order and Delivery.
- 7.9 We are not liable for any loss, defect or damage to Products or Services:
- (a) if you settle or compromise a claim by a third-party concerning such without our involvement and prior written consent; or
  - (b) occurring while in transit with a third-party (whether a common carrier or not) even if we arranged for that third-party to transport the Products and Delivery has not occurred except to the extent you can prove that we failed to take reasonable care in packing the Products and that resulted in the loss, defect or damage; or
  - (c) if you do not reasonably assist us with our enquiries concerning your claim.
- 7.10 We are not liable to you or any other person for any loss or damage to person or property, including Consequential Loss arising out of us Delivering Products or Services or otherwise providing or supplying or failing to provide or supply any goods or services in connection with these Terms on any account whatsoever, and whether by way of damages or indemnity or in respect of breach of contract, tort (including negligence) or defect in manufacture/processing, design or information.
- 8. Product Recalls**
- 8.1 If we decide that a Product must be recalled, you must fully cooperate with us. We control all Recall decisions, notices, communications, and actions, but will consult with you, if reasonably practicable.
- 8.2 You must pay all reasonable and properly incurred Recall Costs to the extent the Recall results from your handling, storage, use or sale of the Products, or from your instructions.
- 8.3 We must pay all reasonable and properly incurred Recall Costs to the extent the Recall results from any inherent defect in the Products or our manufacturing, packaging, labelling, specifications or instructions.
- 8.4 If the Recall is primarily due to circumstances that are not caused by either of us, each of us must bear our own internal costs and we will agree in good faith how to allocate any remaining Recall Costs.
- 8.5 You must follow any reasonable instructions we give you about identifying, securing, withdrawing, stopping sale of, or returning any affected Products.
- 8.6 You must promptly tell us if you become aware of any issue, complaint, safety concern, or potential defect that may require investigation or could lead to a Recall.
- 8.7 We are not liable for any loss you suffer because of a Recall unless the loss arises from a Non-excludable Obligation that cannot legally be excluded.
- 9. INDEMNITY**
- 9.1 You indemnify us and must keep us indemnified against all claims, suits, actions, demands, loss (including Consequential Loss), liability, costs, expenses (including legal expenses on a full indemnity basis), judgments and awards (**Losses**) made against us or incurred by us to the extent that the Losses are caused or contributed to by you or any of your officers, employees, agents, representatives or contractors connected to:
- (a) a breach of applicable law or regulatory requirements, including those related to food safety and labelling;
  - (b) a failure to take any other reasonable precautions either to bring to the attention of any potential users of the Products any dangers associated with the Products, or to detect any matters in relation to which we may become liable, including liability under the CCA;
  - (c) any fraud, negligent act or

- omission or breach of duty;
- (d) any claims from parties whose property has been incorporated, processed or commingled into or with the Products.
- 9.2 The indemnity in clause 9.1 is a continuing indemnity and is in addition to any statutory rights or remedies we may have or exercise against you.
- 10. SECURITY INTEREST**
- 10.1 These Terms create a security agreement under the PPSA and you grant to us a security interest in all Products we supply to you, all goods made using them and all proceeds as security for payment of amounts owing by you to us for all Products and Services Delivered and all other amounts payable by you to us and your performance of your other obligations to us.
- 10.2 You agree:
- (a) at our request, to promptly do all things (including signing all documents) and provide all assistance and information necessary to ensure that we have a perfected first ranking security interest in the collateral referred to in 10.1; and
- (b) that we may register a financing statement or financing change statement at your cost and do anything else required to perfect our security interest in the collateral granted under these Terms.
- 10.3 You must not create, or permit to be created, any other security interest in the collateral referred to in 10.1.
- 10.4 Words and phrases used in this clause 10 that are defined in the PPSA have the same meaning.
- 11. FORCE MAJEURE EVENTS**
- 11.1 A party is not liable for failing to perform its obligations under these Terms to the extent that the failure is caused by a Force Majeure Event.
- 11.2 The affected party must promptly tell the other party in writing when a Force Majeure Event occurs and must take reasonable steps to reduce its impact.
- 11.3 While the Force Majeure Event continues, the affected obligations are suspended to the extent they cannot be performed.
- 11.4 If a Force Majeure Event continues for more than 30 days, either you or we may cancel any affected orders on written notice, without liability to the other, except for any Products Delivered or Services performed before cancellation.
- 12. DISPUTES**
- 12.1 If a dispute arises under these Terms, the parties must first try to resolve it through good-faith discussions between their operational representatives.
- 12.2 If the dispute is not resolved within 7 days, either party may escalate it to a senior executive (such as a General Manager or Director) of each party, who must meet and try to resolve the matter.
- 12.3 If the dispute is still not resolved after senior-executive discussions, the parties must refer the dispute to mediation administered by the Australian Disputes Centre (ADC) in Melbourne under the ADC Mediation Guidelines. If the dispute is not resolved within 30 days after the mediator is appointed, either party may begin court proceedings.
- 12.4 Nothing in this clause prevents a party from seeking urgent injunctive or other interlocutory relief from a court where necessary to protect its rights.
- 13. CONFIDENTIALITY & INTELLECTUAL PROPERTY**
- 13.1 You must keep all confidential information we give you secure and confidential, and use it only as needed to perform your obligations under these Terms.
- 13.2 You must not disclose our confidential information to anyone unless we agree in writing, or the disclosure is required by law.
- 13.3 All intellectual property in or relating to the Products or Services (including their packaging, appearance or get-up) and any materials we provide remains our property. You do not obtain any rights in it under these Terms.
- 13.4 You must not copy, modify, adapt, reverse-engineer, repackage, deface, obscure or use our intellectual property (including trade marks) except as we expressly allow in writing.
- 13.5 If we ask you to, you must immediately return or destroy all confidential information and confirm to us in writing

that you have done so.

**14. LIQUID BULK PRODUCT TERMS**

If any LBP (including all related Services) is sold to you, you acknowledge that any additional terms and conditions that we impose (including by reference to such being set out on our website or otherwise making them available) as a condition of accepting any order for such LBP from you (**Other LBP Terms**) apply and the Other LBP Terms will prevail to the extent they are not consistent with these Terms. Nothing in this clause 14 limits the operation of clause 15 so that if Stock Food consists of LBP, you must comply with both clauses 14 and 15.

**15. STOCK FOOD AND SECONDS**

If any Product (which, for the purposes of this clause 15 includes all related Services) is sold to you as stock food, seconds or any similar classification (**Stock Food**) you acknowledge that:

- (a) any additional terms and conditions that we impose (including by reference to such being set out on our website or otherwise making them available) as a condition of accepting any order for Stock Food from you (**Other Terms**) apply and the Other Terms will prevail to the extent they conflict with these Terms;
- (b) Stock Food is not fit for human consumption and is sold by us on the express irrevocable representation and undertaking from you that all of it will be exclusively used for the purpose of animal feed and in accordance with the Other Terms, if any;
- (c) you must make yourself aware of, and comply with, all applicable laws relating to Stock Food and how the Product must be treated, stored and applied (including those that relate to ruminant feed bans and swill feeding); and
- (d) you must not in any circumstance use or apply the Stock Food Product we sell to you for a purpose that is not expressly permitted by any applicable law concerning, or permit issued in relation to that Stock Food

Product.

**16. GENERAL**

- 16.1 Nothing in these Terms gives you any right, title or interest in or to any of our assets or rights other than the Products or Services and then only in accordance with these Terms.
- 16.2 Jurisdiction & Governing Law: These Terms, your order and any connected dispute or matter is governed by the law of Victoria, Australia and both we and you submit to the non-exclusive jurisdiction of that State.
- 15.3 Privacy: Both you and we agree to comply with relevant privacy laws in respect of any personal information collected in connection with these Terms. Any personal information collected by you or us in connection with these Terms must only be used or disclosed for the purposes of ensuring performance of these Terms or your orders and any similar future agreements or arrangements.
- 16.3 Severance: If part of these Terms (or an order) is illegal or unenforceable, that part will be interpreted as may be necessary to ensure it is not illegal or unenforceable. If any part of these Terms (or order) cannot be interpreted in that way, it will be severed from these Terms (or order) and the remaining provisions continue in full force and effect.
- 16.4 No assignment: You must not assign or novate any or all of your rights or obligations under these Terms or an order or purport to do so, without our prior written consent, which may be given or withheld in our complete discretion.
- 16.5 Notices: All notices under these Terms must be in writing and delivered to the other party's email or address in Australia that the other party specifies from time to time.
- 16.6 Variation: Without limiting 16.7 any variation to, or amendment or replacement of, these Terms or any order must be agreed by both you and us in writing.
- 16.7 Updating of Terms: We may amend or replace these Terms at any time by informing you (including by publishing amended terms on our website or otherwise making them available online) and the amended Terms will apply in

respect of all orders placed by you after you were informed. We may also terminate any and all rights that you may have to place further orders under these Terms without cause on 5 days' notice to you or such shorter timeframe as these Terms otherwise provide.

- 16.8 **Change of control:** If you are a company or trust, we may terminate these Terms immediately by notice in writing to you if we reasonably form the view that you have undergone a change of control or other change of circumstance whereby we conclude that we would be dealing with a different party or are subject to different commercial considerations if we were to continue dealing with you. We may also terminate these Terms immediately by notice in writing to you if you sell or transfer all or a material part of your business, assets or undertaking (or agree to do so) without our prior written consent
- 16.9 **No waiver:** A party's delay or failure to exercise any of its rights or remedies will not be a waiver of any of its rights or remedies.
- 16.10 **Rights of related bodies corporate:** If any of our related bodies corporate, affiliates or associates is involved in the sale or Delivery of Products or Services to you, their acts are deemed to be ours and they benefit from these Terms as though they are us (and we hold these Terms in trust on their behalf and may exercise them on their behalf). We are not obliged to tell you about any involvement by them. We also hold these Terms on behalf of our employees, agents, contractors and advisers and may exercise them on their behalf.

## 17. DEFINITIONS & INTERPRETATION

17.1 In these Terms:

**Agreed Basis** means, for each order of Products or Services you make and that we accept, you agree that:

- (a) Delivery is to our nominated point of collection or delivery within Australia;
- (b) you are bound by the quantity of Product referred to in your order, together with all related Services; and
- (c) you are liable for, and must pay all

taxes (including any sales, value added or like impositions), levies, duties or fees in respect of each Delivery, except that GST will be payable as otherwise provided in these Terms.

**Australian Consumer Law** means the Australian Consumer Law set out in Schedule 2 to the CCA.

**CCA** means the *Competition and Consumer Act 2010* (Cth) as amended or replaced from time to time.

**Consequential Loss** means a claim for loss and damage that is special, indirect, punitive, or indirect, including claims for economic loss or damage, loss of contract, loss of production or from production stoppage, or loss of profit and loss of revenue or opportunity, regardless of whether the likelihood of that loss or damage was known or ought to have been reasonably known.

**Deliver** means, unless we notify you otherwise on acceptance of your relevant order:

- (a) for Products other than LBP:
  - (i) if we are responsible for transport, DAP Incoterms, with risk passing when the Products are uplifted from that transport; or
  - (ii) if you are responsible to arrange collection, EXW Incoterms, with risk passing when those Products are uplifted to transport,
- (b) for LBP:
  - (i) in the case of a hose supplied by us for loading or unloading, EXW Incoterms by us making the LBP available to you, with risk passing when the LBP leaves the hose to enter your transport or Receptacle; or
  - (ii) in the case of a hose supplied by you for loading or unloading, EXW Incoterms by us making the LBP available to you, with risk passing when the LBP enters the hose from our transport or Receptacle silo,

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and  
(c) for all Services, by us having completed the supply or performance of Services (as reasonably determined by us),

as appropriate, on the Agreed Basis;

**Force Majeure Event** means an event beyond a party's reasonable control, including natural disasters, pandemics, epidemics, government restrictions, labour shortages, industrial action, transport failures, utility outages, and supply-chain disruptions.

**General Advice** means information, advice, recommendations, representations or statements concerning the Products or Services that we may give you.

**GST, supply, tax invoice and taxable supply** have the same meaning as in *A New Tax System (Goods and Services) Act 1999* (Cth);

**Incoterms** means the International Chamber of Commerce's Incoterms 2020;

**law** means any law, by-law, legislation, rule, standard, regulation, registration, code, requirements or relevant good industry practice applicable to goods and services equivalent to, or incorporating, the Products or Services;

**LBP or Liquid Bulk Product** means any liquid goods or liquid product supplied by us in bulk Receptacles or transport vessels;

**LMD Company** means one or more of the companies with Australian company numbers ACN 003 502 583, ACN 095 181 669, and ACN 006 483 665.

**Post-Test** means a test to confirm that any factor agreed by you and us have been satisfied at or after Delivery;

**PPSA** means the *Personal Property Securities Act 2009* (Cth) and its regulations, as amended or replaced from time to time.

**Pre-Test** means a test to confirm that any factor agreed by you and us have been satisfied before Delivery;

**Product** means any goods supplied by us to you in response to your order and includes LBP;

**Recall** means a recall of Products (whether mandatory or voluntary) and includes withdrawals from sale.

**Recall Costs** means all costs connected to a recall, including transport, collection, disposal, testing, investigations, customer communications, and any amounts paid to regulators, suppliers or third parties.

**Receptacle** includes a pallet, drum, container, silo, tank, bin or crate or other vessel.

**Sales Tax** means any tax or levy of a sales, value added or goods and service nature applicable to the sale or supply of any Product or Service from time to time under the law applicable to those Products or Services and these Terms, and includes stamp duty on these Terms or any transaction contemplated by them; and

**Services** means any services supplied or deemed to be supplied by us incidental to the Products.

**we, our or us** means the LMD Company that sells you Products or Services and its officers, employees, agents, contractors and advisers;

**you or your** means the buyer of the Products or Services from us and includes the buyer's agent, contractor or representative (including a storage service provider or anyone who processes, on-sells or on-provides goods or services incorporating the Products or Services);

17.2 In these Terms:

- (a) another grammatical form of a defined word or expression has a corresponding meaning;
- (b) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- (c) references to amounts of money are references to amounts in Australian currency;
- (d) references to weights, quantities or other measures (but not money) are references to that weight, quantity or other measure within a variance of plus or minus 5%; and
- (e) a rule of construction does not apply to our disadvantage because we prepared these Terms.