



Adding  
**Value**  
to  
**Food**

# New Account Form

## Part 1: Customer Information Invoice

### Address

Contact Name:\*

Company Name:\*

Trading Name:\*

Address Line 1:\*

Address Line 2:\*

Town:\*

Post Code:\*

Telephone:\*

Invoice E-mail

### Delivery Address (If Different)

Contact Name:

Address Line 1:

Address Line 2:

Town:

Post Code:

Telephone:

Fax:

Technical Email:

Buying Email:

## Part 2: Company Information Buying

Contact:

Trading Style:\*

Accounts Contact:\*

Co. Reg. No:\*

Co. VAT No. \*

## Names & Addresses of Partners:

## Part 3: General Business Information

Requested Credit:

Parent Company?

## Trading History / Other Information



The Purchaser's attention is drawn in particular to the provisions of clause 9.

## 1 APPLICATION OF THESE CONDITIONS

These conditions apply to all contracts and/or agreements for the sale of goods by Scobie & Junor (Estd. 1919) Ltd hereinafter referred to as "the Company" and shall supersede any terms and conditions contained in any order by the Purchaser or in any other document relating to the agreement. In particular, all other terms whether or not agreed or offered, and all conditions and warranties whether expressed or implied and all representations whether made orally or in writing before or after the date hereof are excluded and cancelled save as required by statute, or to the extent that the same appear herein, or are specifically agreed and confirmed in writing and signed by a director of the Company. The headings of the clauses of these conditions are for reference only.

## 2 SPECIFICATIONS

Drawings, photographs, illustrations and other descriptions or performance specifications shall not be capable of being made of the essence of the contract. All representations, unless otherwise specifically agreed in writing, are approximate and for information only and they shall not constitute a sale by description under these conditions. All goods supplied by the Company comply with all applicable and relevant legislation in the United Kingdom. The Purchaser however should satisfy himself as to the performance and suitability of goods for his particular application.

## 3 QUANTITY

In the case of goods to be specially produced by the Company, the Purchaser's order shall be deemed duly fulfilled if the Company shall deliver any shortfall or surplus in quantity not exceeding 10% of the quantity ordered, such shortfall or surplus to be credited or charged on a pro-rata basis.

## 4 DELIVERY

Any date or time of delivery shall not be or be capable of being made of the essence of the contract. Any such date or time is an estimate only and is not contractually binding on the Company. The Purchaser shall not be entitled to terminate the agreement or refuse to take delivery of an order due to late delivery (subject to a late delivery amounting to a material breach) and the Company shall have no liability for any failure or delay in delivering an order to the extent that such failure or delay is caused by the Purchaser's failure to comply with its obligations under this agreement. Where the goods sold comprise more than one item, the Company may deliver the same by installments, whether expressly agreed or not, and in such event the Purchaser agrees to accept delivery of, and pay for, each installment as if each had been purchased under a separate contract. Any claim by the Purchaser in respect of any one or more installments shall not entitle the Purchaser to treat the contract as a whole as repudiated.

## 5 DAMAGE AND LOSS IN TRANSIT

The Company shall not be under any responsibility for goods damaged in transit unless such damage is reported by separate notice in writing to the carriers and to the Company within three days of receipt of the goods by the Purchaser and the goods have been signed for as not examined. In the event of non-delivery of the goods in whole or in part no claim can be entertained, unless notice of such non-delivery reaches the Company within seven days from the date of dispatch.

## 6 RETENTION OF TITLE

- (i) Risk of damage to or loss of the goods shall pass on delivery to the Purchaser or to any carrier or agent of the Purchaser.
- (ii) Notwithstanding delivery and the passing of risk in the goods, the title to and property in the goods supplied by the Company to the Purchaser shall not pass to the Purchaser until the Company has received in cash or cleared funds payment in full of the price of the goods and all other goods sold by the Company to the Purchaser for which payment is then due i.e. until all sums due or owing to the Company by the Purchaser of any amount whatsoever have been paid in full.
- (iii) Until such time as the property in the goods passes to the Purchaser, the Purchaser is obliged to store the goods in such a way that they can be identified as the Company's property, keeping them separate from the Purchaser's own property and the property of any other person.
- (iv) Until such time as the property in the goods passes to the Purchaser, the Purchaser is obliged to maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
- (v) Until such time as the property in the goods passes to the Purchaser, the Purchaser grants the Company, its agents and employees an irrevocable license and right to enter any premises where the goods are stored in order to inspect or repossess them at any time.
- (vi) The title in any stock which has been supplied by the Company and has not been paid for is automatically assumed to be the last deliveries of that item (s) and not from previous deliveries
- (vii) In the event of:-
  - (a) any default of the Purchaser in respect of these conditions (including but not limited to payment obligations;
  - (b) the Purchaser going into liquidation (otherwise than for the purpose of amalgamation or reconstruction), having a receiver appointed over any of its assets or undertaking or being subject to an administration or order any other insolvency proceedings; or
  - (c) the Purchaser becoming apparently insolvent, bankrupt or granting a trust deed for its creditors; or
  - (d) the Purchaser making any composition with its creditors or ceasing or threatening to cease to carry on business; or
  - (e) the Company reasonably apprehending that any of the above mentioned is about to occur in relation to the Purchaser and notifies the Purchaser accordingly, then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the agreement or suspend any further deliveries under the agreement without any liability to the Purchaser and, if the goods had been delivered and not paid for in full, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary. The Company shall be entitled to seek to recover any such payment falling due and any damages or losses suffered by the Company (including consequential, special or indirect damage or loss).

## 7 PRICE AND PAYMENT

- (I) The Company reserves the right to revise the contract price to take account of any increases in costs since the date of the agreement if it is in any way delayed or hampered in the carrying out of any work under the agreement, by any act or omission of the Purchaser or by any circumstances beyond the Company's control. Prices quoted are valid for 28 days from the date of quotation but orders are accepted by the Company on the basis that the goods will be supplied at the price ruling at the date, or, as the case may be, date, of delivery of the goods and quoted prices shall be amended accordingly.
- (II) Value Added Tax, or other tax or excise duty applicable to the agreement under statute, shall be charged in addition, at the rate or rates prevailing at the date of invoice and shall be payable by the Purchaser.
- (III) The time stipulated within which the Purchaser is to pay for the goods supplied or to be supplied shall be of the essence of the contract. Save as otherwise expressly specified, all payments shall be due and owing on the thirtieth day following the date of the Company's invoice.
- (IV) Without prejudice to any other rights which the Company may have the event of any failure by the Purchaser to pay any monies due by the date for the Company may charge the Purchaser, and in such event the Purchaser shall pay, interest on any overdue amount, at a rate of 5% per annum above the base rate of the Bank of England existing at the time the amount becomes overdue.

## 8 WARRANTY

The Company warrants that the goods supplied by it are of sound material and workmanship and that accordingly:-

- (a) In the case of food processing and preparation equipment or any part or parts thereof (other than any consumable or wearing parts requiring regular repair or renewal under normal working conditions), such equipment shall be free from any fault or defect arising from defective materials or workmanship for a period equivalent to the warranty term provided by the manufacturer unless specified separately, from the date of supply provided however that such warranty periods shall be limited to three calendar months in the case of reconditioned equipment, unless specified separately.
- (b) In the case of packaging materials, casings and ingredients, consumables or wearing parts of food processing and preparation equipment and other consumable materials, such goods shall be free from any fault or defect arising from defective material or workmanship for a period of one calendar month from the delivery date thereof.
- (c) Where the goods have been manufactured by a third party, the Company offers no further warranty or guarantee than the guarantee or warranty provided by the third party manufacturer of the goods, except to the extent that such warranty or guarantee is required under applicable law;  
Provided however that:
  - (i) any warranty claim under this clause must be notified in writing to the Company before the expiry of the relevant warranty period; and
  - (ii) this warranty shall only apply to the equipment referred to in paragraph 8(a) above if such equipment shall have been properly operated by the Purchaser under the conditions and in accordance with the instructions specified by the Company and using only original or replacement parts supplied or approved by the Company, and no such equipment nor any parts thereof shall be returned to the Company and no claim in respect thereof shall be considered by the Company unless such equipment and the operating conditions thereof shall first have been inspected at the Purchaser's premises by the Company's engineer; and
  - (iii) this warranty shall only apply to the goods referred to in paragraph 8(b) above if such goods shall not normally require repair or renewal under normal working conditions within such one-month warranty period and shall not have been cut, printed or processed after delivery to the Purchaser, and no such goods shall be returned to the Company and no claim in respect thereof shall be considered by the Company unless such goods shall first have been inspected at the Purchaser's premises by the Company's representative; and
  - (iv) the Purchaser must return, at his own expense, to the Company's works, any goods (including equipment or parts referred to in paragraph 8(a) above) claimed to be faulty or defective, after written approval for such return is given by the Company, and if such claim is accepted and such goods are replaced under this warranty such original goods shall become the property of the Company and this warranty shall apply to any replacement goods only during the remainder of the warranty period applicable to such original goods; and
  - (v) this warranty shall not apply to any goods (including any equipment or parts referred to in paragraph 8(a) above) which are the subject of any modification, repair or other work carried out by the Company pursuant to any contract for or including the supply, and the Company's sole obligation under any such contract in respect of any services to be supplied shall be to exercise a reasonable standard of care in carrying out such work; and
  - (vi) the Company's sole liability under this warranty shall be at its option and at its cost to repair or to replace any faulty or defective goods (or the faulty or defective part or parts thereof) or to repay to the Purchaser the purchase price for the faulty or defective goods provided; and
  - (vii) the Company shall be under no liability to repair or replace as aforesaid, unless and until the Purchaser shall have paid in full for the goods and shall have performed all his other obligations hereunder.



## TERMS AND CONDITIONS OF QUOTATION AND SALE

### 9 CONDITIONS OF LIABILITY

The liability of the Company will be governed by the provisions of this paragraph 9 and the Company expressly excludes all liability of every kind which can lawfully be excluded. Without prejudice to that generality:-

- (i) nothing in this paragraph 9 or in these terms and conditions shall restrict or exclude liability of the Company or its employees for
  - (a) death or personal injury caused by the negligence of the Company, its officers, employees, contractors or agents; or
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - (d) defective products under the Consumer Protection Act 1987; or
  - (e) any other liability which may not be excluded or restricted by applicable law; and
- (ii) the Company shall under no circumstances whatsoever be liable to the Purchaser, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the sale and/or supply of goods to the Purchaser or otherwise and for the purpose of this clause the Company contracts on its own behalf and on behalf of its employees, directors and agents; and
- (iii) the Company has obtained public and product indemnity insurance cover for claims up to £5 million per claim, which cover includes product liability insurance for aggregate claims up to £5 million per annum, (together "Insurance Cover"). Any loss or damage which can be claimed against or is covered by the Insurance Cover for the purposes of these conditions shall be defined as an "Insured Claim". Subject to clause 9(i) above, the Company's total liability for an Insured Claim in contract, delict (including negligence or breach of statutory duty) or otherwise, arising in connection with the performance or contemplated performance, failure or partial failure of the sale or supply of the goods shall be limited to and shall in no circumstances exceed the sum which is payable and is paid to the Company or the Purchaser or otherwise under the Insurance Cover in relation to that Insured Claim; and
- (iv) the Company's total liability to the Purchaser in respect of all other losses (other than Insured Claim(s), to the extent that payment is made thereunder,) whether in contract, delict (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price paid by the Purchaser for the goods.

### 10 REPAIRS

The Company shall take all reasonable care of goods and equipment received by it at its premises for modification, repair or other work and shall be responsible for any physical loss or damage thereto arising directly from the acts or omissions of its employees, but subject thereto such goods or equipment shall be held by the Company at the sole and entire risk of the Purchaser.

### 11 CANCELLATION OF ORDERS

- (i) No order can be cancelled by the Purchaser in whole or in part after the order has been accepted by the Company, without the written consent of the Company and at the Company's discretion, the Purchaser shall indemnify the Company in full against all loss, costs and expenses incurred by the Company as a result of such cancellation.
- (ii) If the Purchaser elects to return goods ordered which are not defective or incorrect, the Company shall be entitled, at the Company's discretion to:
  - (a) accept or refuse to accept the returned goods; and
  - (b) require the Purchaser to pay for the costs of carriage from the Customer to the Company of the goods or recover the cost of such carriage paid by the Company from the Purchaser; and
  - (c) charge the Purchaser an administration fee up to 15% of the total cost of the goods; and
  - (d) claim any loss or damage suffered as a result of any damage or disrepair to the goods caused by or attributable to the Purchaser.

### 12 SCALE UP PROCESS

In order to allow the Company to identify any issues which arise in the development, creation or manufacture of specific good(s), the Company operates a procedure which allows goods to be produced in incremental steps, a copy of which can be or will be provided to the Purchaser by the Company ("Scale Up Procedure"). If the Purchaser requires the Company to vary the Scale Up Procedure by not complying with the Scale Up Procedure, the Purchaser acknowledges, understands and accepts that the Company shall not be responsible for any variance in the goods which is due to scaling up not in compliance with the Scale Up Procedure. The Company shall not be responsible for or liable for any loss or damage arising from the failure to comply with the Scale Up Procedure and the Purchaser will be liable to pay for all goods it has ordered and that have been manufactured in such circumstances.

### 13 VARIATION OF GOODS

The goods may contain natural ingredients sourced from various locations and these ingredients may vary on a case by case basis. The Purchaser acknowledges, understands and accepts that this may cause a variation in taste and/or appearance and/or other properties of the goods.

### 14 INTELLECTUAL PROPERTY

All intellectual property rights (including but not limited to copyright (and neighbouring and related rights); trade marks; goodwill; rights in designs; confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world) will vest in and remain vested in the Company, except to the extent that these are owned by a third party.

### 15 NO REVERSE ENGINEERING

The Purchaser has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile or disassemble the goods in whole or in part except where express written consent has been given by the Company

### 16 STOCK HOLDING AGREEMENT

(i) The Company shall be entitled, at its discretion, to require the Purchaser to enter into a stock holding agreement which will detail the level of stock to be purchased and/or manufactured and held on behalf of the Purchaser by the Company and the levels at which such stock will be maintained ("Stock Holding Agreement"). The Stock Holding Agreement can and/or will be provided by the Company to the Purchaser and it is understood and accepted by the Purchaser that when the specific terms are agreed with the Company the Stock Holding Agreement will authorise the Company to buy and/or manufacture and hold stock on the Purchaser's behalf, and to maintain stock levels of such goods in the quantities detailed in the

Stock Holding Agreement.

(ii) In the event that the Purchaser wishes to terminate its agreement with the Company, the Purchaser is obliged to purchase all stock held and/or ordered and/or in the process of manufacture as required under the Stock Holding Agreement.

### 17 TERMINATION

(i) The Company may terminate the agreement with immediate effect by giving written notice to the Purchaser if the Purchaser becomes subject to any of the events listed below:

- (a) the Purchaser suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts;
  - (b) the Purchaser commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Purchaser or to appoint an administrator;
  - (e) (being a company) the holder of a qualifying floating charge over the Purchaser's assets has become entitled to appoint or has appointed an administrative receiver;
  - (f) a person becomes entitled to appoint a receiver over the Purchaser's assets or a receiver is appointed over the Purchaser's assets;
  - (g) (being an individual) the Purchaser is the subject of a bankruptcy petition or order;
  - (h) any event occurs, or proceeding is taken, with respect to the Purchaser in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (h) (inclusive);
  - (i) the Purchaser suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - (j) the Purchaser's financial position deteriorates to such an extent that in the Company's opinion the Purchaser's capability to adequately fulfil its obligations under the agreement has been placed in jeopardy; or
  - (k) (being an individual) the Purchaser dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- (ii) The Company may terminate the agreement with immediate effect if the Purchaser is in breach of these conditions and/or the agreement and fails to remedy such breach within fourteen (14) days of notification of any such breach by the Company.
- (iii) On termination of the agreement for any reason the Purchaser shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest.
- (iv) Termination of the agreement, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- (v) Clauses which expressly or by implication survive termination of the agreement shall continue in full force and effect.



## TERMS AND CONDITIONS OF QUOTATION AND SALE

### 18 FORCE MAJEURE

In the event of the Company being prevented from performing any of its obligations hereunder by reason of any cause beyond its control or by reason of any strike, go slow, lockout or other industrial action, the Company may either suspend any of its said obligations until such reasonable time as it is not prevented from performing as aforesaid or may terminate the agreement. Such determination shall, without prejudice to the accrued rights and obligations of the parties hereunder, including but not limited to the Purchaser's obligation to pay any amounts owed to the Company under these conditions, relieve each party of any duty to perform any remaining obligation hereunder.

### 19 LAW GOVERNING THE AGREEMENT

These conditions and the agreement shall be subject to and construed in accordance with Scots Law and the Purchaser hereby submits to the exclusive jurisdiction of the Scottish Courts.

### 20 CONDITIONS OF LIABILITY

No waiver by the Company of any breach of the agreement by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provisions.

### 21 GENERAL

If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected.

