



Teys Australia Pty Ltd – Distributor Terms and Conditions

BACKGROUND

- A. Teys is in the business of beef production and other value added beef products.
- B. Teys sells Product to the Distributor.
- C. The Distributor either sells the Product to the Approved Retailers in the packaging it is purchased from Teys facilities or repacks the Product into retail ready packs applying Teys Trade Indicia and Teys approved Markings.
- D. Teys requires the Distributor to act strictly in accordance with these terms and conditions for any Product sold.
- E. The Distributor agrees that it will comply with these terms and conditions which are requisite for Teys to allow the Distributor to sell any of its Products to any customer anywhere in the world.

OPERATIVE PROVISIONS

1 Definitions

Confidential Information means these terms and conditions, the rates and pricing pertaining to the Purchase Order, the negotiations leading up to the Purchase Order being issued, any information relating to Teys' business, dealings, finances, computer information, systems, marketing practices or any other system of Teys' business or any associates of Teys.

Force Majeure Event means any of the following:

- (a) an act of God;
- (b) an act of terrorism;
- (c) the act of any government or authority (including refusal or revocation of any license or consent);
- (d) fire, explosion, flood, fog, drought or bad weather;
- (e) power failure, failure of or breakdown of plant, machinery or vehicles;
- (f) the default or failure of a supplier or sub-contractor;
- (g) theft, malicious damage, strike, lockout, industrial action of any kind; and
- (h) any cause or circumstance beyond a party's reasonable control.

Loss means all losses, liabilities (whether actual, contingent or prospective), costs, charges or expenses howsoever caused and of whatsoever nature or description.

Markings means whatever Teys' Trade Indicia that Teys shall prescribe from time to time in writing.

Product means the Product purchased from Teys.

Specifications as set out in the Teys' Trade Indicia.

Teys' Trade Indicia means the Teys' trademark and all other trademarks, service marks, trade symbols, logos, slogans, copyrights and related rights conceived, developed or purchased by Teys or a Related Entity of Teys for or in conjunction with the Product.

2 Placing of orders: prices

- 2.1 The Distributor must place orders for the Product with Teys. Every order is taken to be an irrevocable offer to buy the Product that are referred to in the order ("**Purchase Order**").
- 2.2 Teys must sell the Product to the Distributor under those orders at prices as Teys may from time to time fix free on board Australian port approved by Teys.

3 Passing of property and payment

- 3.1 Title to the Product passes to the Distributor only when the Distributor pays the full invoiced price of the Product.
- 3.2 The Distributor must pay for the Product under the terms for payment set out in the Purchase Order.
- 3.3 Risk in the Product passes to the Distributor when the goods are delivered alongside the vessel at the named port of shipment.

4 Distributor Covenants

- 4.1 The Distributor covenants with Teys that:
 - (a) (**compliance with statutes**) at its own cost and expense comply with and observe all relevant acts, regulations, by-laws, orders, statutory notices and notices by the local government or

other competent authority in force relating to the Distributor's business;

- (b) (**conduct of business**) it will conduct its business in an orderly and businesslike manner with sufficient expertise to ensure the Distributor's personnel properly service its business;
- (c) (**performance of obligations**) it will perform its obligations under these terms and conditions with all of the due skill, diligence and care that would reasonably be expected from a prudent and experienced provider of services similar to those being provided under these terms and conditions and in accordance with all applicable industry standards, accreditations, practices and laws; and
- (d) (**certification**) it is certified to and meets the accreditation standards of a GFSI recognised food safety scheme (for example BRC or SQF) and can provide Teys with copies of third party audit reports as required; and
- (e) (**notification**) it will notify Teys' management immediately when there is any breach of food safety, quality or regulatory requirement that directly or indirectly may affect Teys' Product.

5 Records

- 5.1 The Distributor must maintain records of:
 - (a) all Products delivered by Teys;
 - (b) quality assurance and food safety;
 - (c) compliance with the Specifications; and
 - (d) such other information as may reasonably be required by Teys in relation to the storage and processing of the Product.
- 5.2 The Distributor must make all or part of such information kept under clause 5.1 available to Teys within a reasonable time of receiving a request in writing from Teys to do so.

6 Quality Assurance

- 6.1 It is an express condition of these terms and conditions that at all times whilst in possession and dealing with Teys' Product, the Distributor will ensure that the Product is packaged, stored and shipped in compliance with applicable laws, standards and best manufacturing practices.
- 6.2 Teys may monitor the Distributor's performance and compliance with the provisions of these terms and conditions through periodic reviews to be conducted at the Distributor's premises.
- 6.3 Upon Teys' reasonable request, the Distributor will provide Teys with written descriptions of acceptance and test procedures together with standards employed and any relevant test results.
- 6.4 Upon Teys' reasonable request the Distributor will permit Teys representatives to observe and inspect the:
 - (a) facilities in which the Product is unpacked (if applicable);
 - (b) Distributor's storage and handling procedures;
 - (c) Distributor's quality control procedures; and
 - (d) finished Product before they are dispatched in order to verify that the Products are of a standard acceptable to Teys.
- 6.5 Teys acknowledges that in exercising its entitlement to make the observations and inspections referred to in paragraph 6.4 above, its representatives may come into contact with the Distributor's confidential information.
- 6.6 Teys agrees that, in the event its representatives come into contact with the Distributor's confidential information, it will at all times keep the Distributors' confidential information absolutely confidential, refrain from making any use of it, and unless required by law will

not directly or indirectly disclose or cause to be disclosed to any person, the Distributor's confidential information.

7 Warranties

- 7.1 Any Product sold by the Distributor must:
- (a) conform strictly to the Specifications; and
 - (b) be good, useable, merchantable, free from defects and fit for their intended purpose; and
 - (c) comply with any and all content, packaging and labelling requirements under applicable standards and laws.
- 7.2 The Distributor further represents and warrants to Teys that:
- (a) it has, or will have available to it, all skills, expertise, personnel, materials and resources necessary for it to perform and comply with its obligations under these terms and conditions;
 - (b) it holds all necessary licenses, accreditations, approvals, permits and consents to perform the obligations in accordance with these terms and conditions;
 - (c) it has made all relevant enquiries in relation to the risks associated with the performance of its obligations under these terms and conditions and has made adequate allowance in the prices for those risks;
 - (d) it has not relied on any warranties or representations by Teys or any information provided to it by or on behalf of Teys in assessing the risks associated with the performance of:
 - (i) its obligations under these terms and conditions; and
 - (ii) the appropriateness of the Prices or deciding to issue the Purchase Order.

8 Trademarks

- 8.1 Teys and the Distributor acknowledge and agree that Teys or a Related Entity of Teys owns solely and absolutely Teys Trade Indicia.
- 8.2 Teys grants the Distributor a non-exclusive, non-transferable license to use Teys Trade Indicia in direct connection with the Product and subject to approval by Teys with respect to each such use in writing.
- 8.3 The Distributor agrees to use the Teys Trade Indicia only in the form and manner and with the appropriate statements as prescribed from time to time by Teys.
- 8.4 Nothing in the these terms and conditions shall be construed to give the Distributor any right, title or interest in the Teys Trade Indicia other than the right to use such Trade Indicia in strict accordance with the Specifications and these terms and conditions.
- 8.5 The Distributor must not use the Teys Trade Indicia on any other product which is not Teys' Product purchased in accordance with clause 2.

9 Packaging and Product Markings

- 9.1 The Distributor must package the Product in accordance with Teys' Specifications and or written directions and in conformity with content, packaging and labelling requirements under applicable standards and laws; and
- (a) ensure the Product bear the Markings; and
 - (b) bear the costs of affixing the Markings and all artwork, printing plates or any other miscellaneous items which are required as part of the production process of the Product.
- 9.2 Teys will provide the form of all Markings to the Distributor and the Distributor shall affix such Markings in the place(s) on each of the Product as Teys shall designate.
- 9.3 Teys will bear any and all costs of and associated with any changes, alterations and modifications to packaging the Product it requests by including, any alterations to the Markings, art work or printing plates during the use of Teys Trade Indicia.

10 Insurance and Liability

- 10.1 **Insurance cover**
- (a) The Distributor assumes responsibility and liability for and agrees to hold Teys and its affiliate

and their respective officers, directors, employees, agents and representatives harmless from all Loss of whatsoever nature arising out of any activities of the Distributor under or resulting from the purchase and distribution of any Teys' Product.

- (b) The Distributor will carry appropriate insurance for:
 - (i) product liability insurance providing coverage for an amount per event of at least \$20,000,000;
 - (ii) public liability insurance providing coverage for an amount per event of at least \$20,000,000; and
 - (iii) any other insurances which the Distributor must effect when distributing and manufacturing the Product or otherwise complying with its obligations under these terms and conditions.

10.2 Evidence of cover

Teys may, from time to time, require the Distributor to provide copies of all current certificates of currency or other evidence reasonably satisfactory to Teys of the Distributor having insurance cover as required under these terms and conditions.

11 Force Majeure

11.1 Notice and Suspension of Obligations

If any party is affected, or likely to be affected, by a Force Majeure Event:

- (a) it must immediately give the other party prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the steps being taken to rectify it; and
- (b) the obligations under these terms and conditions are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

11.2 Effort to Overcome

If either Party claims a Force Majeure Event, it must use its reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible, and must give details of its progress to the other Party as and when the other Party reasonably requests. However, this does not require any Party to settle any industrial dispute in any way it does not want to.

12 Indemnities

- 12.1 To the fullest extent permitted by law, the Distributor shall indemnify, defend and hold harmless Teys, its Related Entities, directors, officers and employees, from all actions, claims, costs, damages, judgments and liabilities whatsoever, including without limitation any product liability claims, in law or equity, arising out of the manufacture, packaging, supply, distribution of the Product by the Distributor or the breach of any of the Distributor's obligations or representations under these terms and conditions. The Distributor's obligation to indemnify Teys pursuant to this clause is to be reduced by the extent to which any action, claim, cost, damages, judgment or liability arises out of or is connected with or results from Teys' negligence.

13 Confidentiality

13.1 Confidentiality obligations

The Distributor may only use Confidential Information for the purposes of performing its obligations under these terms and conditions, and must keep the existence of any Confidential Information confidential except where:

- (a) the information is public knowledge (but not because of a breach of these terms and conditions);
- (b) disclosure is required by law or a regulatory body; or

- (c) disclosure is made to a person who must know for the purposes of performing the Distributor's obligations in accordance with these terms and conditions and on the basis that the person keeps the information confidential.

13.2 Dealing with Confidential Information after cessation of the purchase and distribution of any Teys' Product.

On cessation of the purchase and distribution of any Tey's Product, the Distributor must either:

- (a) return any Confidential Information that it holds to Teys; or
- (b) destroy any Confidential Information that it holds and provide a certificate attesting to that destruction to Teys.

14 Sale of Teys' Products to Approved Suppliers

14.1 The Distributor shall sell the Product to suppliers approved by Teys from time to time ("**Approved Suppliers**").

14.2 The Distributor must ensure that any contract of sale for the Product contains terms that oblige the Approved Supplier to perform its obligations under the contract of sale in a way that ensures that the Distributor complies with its obligations under these terms and conditions, including terms that give Teys the rights and impose on the Approved Supplier the obligations set out in these terms and conditions.

15 General

15.1 Relationship

Except where these terms and conditions expressly state otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

15.2 Survival

Any indemnity or any obligation of confidence under these terms and conditions and is independent and survives cessation of the purchase and distribution of any Teys' Product.

15.3 Governing law and jurisdiction

These terms and conditions are governed by the laws of Queensland, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland, Australia.