

EXPORT TERMS AND CONDITIONS OF SALE

1 **General:** Unless otherwise agreed in writing between **KGF AU** and its customer (**Customer**), these terms and conditions (**Conditions**), together with the sales order confirmation issued by KGF AU to the Customer (**Sales Order Confirmation**) and any documents specified on the Sales Order Confirmation, constitute the entire terms of the agreement to supply goods (**Product**) to the Customer (**Agreement**). The Conditions apply to all orders for Products from the Customer which are accepted by KGF AU and exclude and supersede all prior discussions, representations and arrangements and any other oral or written terms and conditions whether or not they are endorsed on, delivered with or referred to in any purchase order or other document delivered by the Customer to KGF AU. If there is any ambiguity, conflict or confusion between the documents constituting the Agreement, the terms of the Sales Order Confirmation prevail.

KGF AU means Kilcoy Industries Australia Pty Ltd or its subsidiary or related body corporate entity, as stated in the Sales Order Confirmation, including without limitation:

- a. Kilcoy Pastoral Company Limited ACN 009 671 112;
- b. Tabro Meat Pty Ltd ACN 656 063 562;
- c. Hardwicks Meat Works Pty Ltd as trustee for the Hardwick Brothers Meatworks Trust ABN 48 001 844 734;
- d. Kilcoy Cuisine Solutions Pty Ltd ACN 655 738 695; and
- e. any other subsidiary incorporated from time to time.

2 **Orders:** KGF AU may accept or reject orders it receives. An order is only accepted by KGF AU when KGF AU has issued a Sales Order Confirmation to the Customer or when the Product is delivered by KGF AU. Accepted orders cannot be cancelled without KGF AU's consent which may be refused or given with conditions. The supply of Product is subject to availability. Supplies of partial shipments are permitted unless otherwise agreed in writing. If KGF AU is unable to supply all of the Customer's order, the Agreement continues to apply to any part of the order supplied.

3 **Price:** The price for the Products is specified in the Sales Order Confirmation. The price is exclusive of all duties, levies, charges and taxes (except a tax or charge imposed on, or calculated by reference to, the income of KGF AU) which are the Customer's responsibility to pay.

4 **Payment:** Unless otherwise indicated in the Sales Order Confirmation, payment for all Products must be made in US dollars by the Customer at the time of placing the order and KGF AU will not have any obligation to deliver any Products to the Customer unless and until full payment has been received. If KGF AU does agree to supply Products on credit, the terms of payment for the Product will be as notified to the Customer in writing without deduction or set off. Time is of the essence. Invoices shall be issued and will be payable in respect of every delivery notwithstanding that the balance of the order has not been nor will be delivered for any reason. Where any payment is not made by the due date, KGF AU may charge interest on any overdue portion from the date the payment was due until the date payment is made (both dates inclusive) at a rate of 1½% per month calculated daily. All bank charges incurred with respect to the Customer's payments to KGF AU will be the responsibility of the Customer. The Customer may not claim any right of set-off against KGF AU or otherwise deduct or counterclaim any amounts from any amounts payable to KGF AU under this Agreement.

5 **Delivery:** Delivery of the Product shall be as specified in the Sales Order Confirmation. All quoted delivery or consignment dates are estimates only. KGF AU is not obliged to meet such dates and will not be liable to the Customer by reason of delays caused by any reason whatsoever.

6 **Risk:** Risk in the Products passes from KGF AU to the Customer in accordance with the Incoterms specified in the Sales Order Confirmation and if no Incoterms are specified in the Sales Order Confirmation, risk will pass according to FAS, Port of Brisbane.

7 **Title:** Title to and property in the Products remains with KGF AU until: (a) KGF AU has received payment in full for the Products and all other

Product supplied to the Customer by KGF AU notwithstanding any credit granted to the Customer; or (b) the Customer sells the Product (either in the form in which KGF AU supplied them or in any other form) in the ordinary course of its business by way of bona fide sale.

7.1 **Customer obligations:** At all times while KGF AU has title to the Products, the Customer: (a) holds the Product as bailee and fiduciary agent of KGF AU; (b) must keep the Product free of any charge, lien or security interest except as created under these Conditions; and (c) must keep the Product in its possession and control, in good condition, and stored separately and marked so that the Product is clearly and easily identifiable as KGF AU's property and inform KGF AU of the location of the Product, if requested. Should the Product be lost or damaged after delivery to the Customer and prior to payment the Customer shall indemnify KGF AU for such loss or damage.

7.2 **Proceeds of sale:** If the Customer sells the Product before payment in full to KGF AU or if the Customer uses the Product in a manufacturing or preparation process of its own or some third party, it must hold all of the proceeds of any sale or dealing in the Product on trust for KGF AU, and must keep such proceeds in a separate account as the beneficial property of KGF AU and the Customer must pay such amount to KGF AU on demand.

7.3 **Reservation of rights:** Notwithstanding any other provision to the contrary, KGF AU reserves the following rights in relation to the Product until all amounts owed in respect of the Product and all other Product supplied to the Customer by KGF AU at any time are fully paid or the Customer sells the Product (either in the form in which KGF AU supplied them or in any other form) in the ordinary course of its business by way of bona fide sale: (a) legal and equitable ownership of the Product; (b) to retake possession of the Product; and (c) to keep or resell any of the Product repossessed.

7.4 **Repossession:** The Customer hereby grants full leave and irrevocable licence to KGF AU and any person authorised by KGF AU to enter upon any premises of the Customer where the Product is stored for the purpose of retaking possession of the Product pursuant to this clause. The Customer agrees that (a) it will be liable for all expenses incurred or suffered by KGF AU (whether direct or indirect) as a result of KGF AU retaking possession of the Product or otherwise exercising its rights under this clause; and (b) it will indemnify KGF AU for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any and all prosecution, actions, demands, claims or proceedings brought by or against KGF AU in connection with retaking possession of the Product or the exercise by KGF AU of its rights under this clause, and the Customer must repay all such fees, costs, losses, damages, expenses or any other sums of money on demand.

7.5 **Insurance after delivery:** The Customer must insure the Product at its cost, from delivery until paid for in full, against such risks as are usual or common to insure against in a business of a similar nature to the Customer. The Customer holds the proceeds of that insurance on trust for KGF AU up to the amount it owes KGF AU in respect of that Product, and must keep such proceeds in a separate account until the liability to KGF AU is discharged and must immediately pay that amount to KGF AU on demand.

8 Resale:

8.1 The Customer agrees that it will not export Product and that it will re-sell Product only to buyers located in the country to which the Product is being delivered and/or as otherwise authorised in writing by KGF AU (**Territory**).

8.2 The Customer agrees that it will not re-sell Product to any buyer whom it knows, or has reasonable grounds to suspect, will export Product or re-sell Product outside of the Territory.

8.3 If KGF AU has reasonable grounds to suspect a breach of clauses 8.1 or 8.2, so as to enable KGF AU to then conduct compliance audits, the Customer will, upon request by KGF AU, promptly provide KGF AU with all information as to the identity of any and all customers to whom the Customer re-supplies the Products and the destination and intended use of the Products.

8.4 If the Customer breaches clauses 8.1 or 8.2: (a) KGF AU may immediately terminate the Agreement by providing the Customer with

notice in writing; and (b) the Customer must pay to KGF AU upon demand all resulting damage, loss, costs and expenses suffered or incurred by KGF AU, directly or indirectly.

9 **Authorisations:** KGF AU and the Customer acknowledge and agree that regulations in place at the loading port may require that the vessel and cargo comply with import permits and regulations in place at the intended place of import/destination. The Customer must use its best endeavours to provide KGF AU as soon as practicable with all information and documentation which KGF AU may reasonably require to obtain permits necessary to facilitate loading and shipment. The Customer must obtain at their own risk and expense any import licence or other official authorisation, and carry out all customs formalities, required for the import of Product. KGF AU provides no warranty that the Product complies with import requirements at the place of import/destination. The Customer will be responsible for, and liable for all additional costs associated with, any delays caused in delivering Product as a result of customs or other governmental or official requirements in Customer's country of business beyond the control of KGF AU.

10 **Defective Product:**

10.1 The Customer agrees to inspect the Products immediately on delivery. If the Customer does not advise KGF AU in writing of any fault, damage or defect in Product or failure of Product to comply with the terms of a contract made pursuant to these Conditions by 5.00pm Brisbane, Australia time on the seventh (7th) day after delivery (**Relevant Time**) including photographs or other evidence supporting the Customer's claim: (a) the Customer is deemed to have accepted Product and is deemed to agree that Product is not faulty, damaged, defective or non-compliant; and (b) the Customer, to the extent permitted by law, releases and discharges KGF AU from and against any claims, actions, loss or liability relating to any fault, damage or defect in the Product other than, but only to the extent that, KGF AU's negligent act or omission or wilful misconduct contributed to the loss or damage.

10.2 If the Customer advises KGF AU in writing of a fault, damage or defect in Product or a failure of Product to comply with the terms of a contract made pursuant to these Conditions (**Defective Product**) by the Relevant Time then KGF AU may at its election, if the Product is Defective Product, the Product was supplied for human consumption and the defect relates to the Product not being fit for that purpose, refund the Customer the price for the Product and KGF AU, to the maximum extent permitted by law, will have no additional liability to the Customer. In the case of all other types of defects, KGF AU will negotiate in good faith with the Customer a commercial resolution of the matter.

10.3 If a Product withdrawal or recall is required, the Customer must do all things reasonably requested by KGF AU and comply with all applicable laws while carrying out the Product withdrawal or recall.

11 **Limitation of Liability:**

11.1 The Agreement sets out the entire agreement between the parties in relation to its subject matter. The terms of the United Nations Convention on Contracts for the International Sale of Goods (**Vienna Convention**) and, to the extent permitted by law, all other terms or conditions in relation to the subject matter of these Conditions, and any other conventions relating to the laws or conditions applicable to the sale of goods, whether implied by use, statute or otherwise, are expressly excluded.

11.2 No statement or recommendation made or advice, supervision or assistance given by KGF AU, its employees, agents, transport contractors or representatives whether oral or written may be construed as or constitutes a warranty or representation by KGF AU or a waiver of any clause in these Conditions. KGF AU is not liable for loss or damage arising directly or indirectly from any act or omission to act arising directly or indirectly from any such statements, recommendations, advice, supervision or assistance.

11.3 Subject to clause 10 (*Defective Product*) and this clause 11, KGF AU is not liable for any loss or damage, suffered by the Customer in connection with a supply of Product under the Agreement other than, but only to the extent that, KGF AU's negligent act or omission or wilful misconduct contributed to the loss or damage.

11.4 Nothing in these Conditions exclude, restrict or modify, or is intended to exclude, restrict or modify, any guarantee, condition, warranty,

right or liability implied by law, (including any guarantee under the ACL) which cannot be lawfully excluded, restricted or modified. If the ACL or any other legislation implies a condition or warranty into these Conditions in respect of the Product supplied, and KGF AU's liability for breach of that condition or warranty may not be excluded but may be limited, clause 11.3 does not apply to that liability and instead KGF AU's liability for any breach of that condition or warranty is limited to KGF AU doing any one or more of the following (at its election): (a) in the case of goods, replacing the Product or paying the cost of replacing the Product; and (b) in the case of services, supplying the services again or payment of the cost of having the services supplied again.

11.5 Notwithstanding any other provision of these Conditions, and to the extent permitted by law including the ACL, neither party is liable to the other party for any consequential loss howsoever arising (including without limitation loss of revenue or profits, loss of the benefit of any contract, loss of data and damage to reputation) or any indirect or direct loss or damage suffered or incurred by the other party arising out of a breach of the Agreement, a negligent act or omission or a breach of a statutory duty or obligation. Subject to law, including the ACL, each party's maximum liability to the other party is the total price paid or payable by the Customer to KGF AU for the relevant goods and/or services.

12 **Termination and suspension:** If: (a) a party fails to perform any of its obligations under the Agreement or breaches any term of this Agreement; (b) a party becomes insolvent, or ceases, or indicates that it is about to cease, to carry on business; (c) anything happens that reasonably indicates that there is a significant risk that a party is or will become unable to pay debts as they fall due; or (d) a step is taken to have a receiver, receiver and manager, provisional liquidator or administrator appointed to a party or any of its assets, the other party may by written notice to the first party: (A) terminate the Agreement; (B) withdraw any credit facilities which may have been extended to the party and require immediate payment of all moneys owing or accrued under this Agreement; (C) withhold any further deliveries of Product under an accepted Sales Order Confirmation; (D) suspend and/or terminate the performance of any other contracts which the party has with the other party; and/or (E) claim compensatory damages from the other party.

13 **Force Majeure:** KGF AU will not be liable for any loss incurred as a result of delay or failure to make any supply of Product or to observe any provisions of this Agreement due to an event of force majeure, being any cause or circumstance beyond KGF AU's reasonable control, including but not limited to, any lack of production capacity or raw materials, strikes, lockouts, labour disputes, fires, floods, acts of God or public enemy, pandemic, epidemic, malicious or accidental damage, delays in transport, breakdowns in machinery or restrictions or prohibitions by any government or any semi-governmental authorities or embargoes. During the continuance of an event of force majeure KGF AU's obligations under this Agreement will be suspended. The Customer must accept delivery of the Product notwithstanding any delay in delivery caused by any force majeure event.

14 **Security Interest:**

14.1 The supply of Products by KGF AU to the Customer from time to time creates a security interest (**Security Interest**) in favour of KGF AU over the Products and the proceeds of sale of the Products (together the **Collateral**). The Security Interest attaches to the Products (and it is not agreed that it will attach at a later time) and continues in the Products even if they are mixed or commingled with other products. The Agreement (including in particular this document which contains the Security Interest) comprises the security agreement. This document is adopted by the Customer when it signs this Agreement and each time the Customer takes physical possession of Products.

14.2 The Customer must, immediately on request, do whatever KGF AU requires of the Customer to enable KGF AU to better exercise its rights pursuant to the Security Interest, to ensure the Security Interest is fully enforceable, perfected, has the priority required by KGF AU and to enable KGF AU to apply for any registration, give any notification in connection with the Security Interest or exercise any rights over the Collateral.

14.3 KGF AU may apply for any registration, or give any notification, in connection with the Security Interest and for whatever class of collateral KGF AU determines. The Customer consents to any registration or notification by KGF AU, and agrees not to make any

amendment demand. The Customer indemnifies, and on demand will immediately reimburse, KGF AU for its costs, charges and expenses (excluding fees for registration of the Security Interest) incurred in connection with anything KGF AU does to perfect, preserve, enforce or protect or otherwise deal with the Security Interest.

14.4 Any payment made by the Customer to KGF AU may be applied by KGF AU in any manner it sees fit.

15 **Enforcement rights:** In the event of a breach of this Agreement by the Customer including, without limitation, failure by the Customer to make payment for the Product by the date specified by KGF AU to the Customer, the Customer must return the Product to KGF AU immediately on demand. The Customer agrees that (a) it will be liable for all costs, damages, expenses or any other sums of money incurred or suffered by KGF AU (whether direct or indirect) as a result of KGF AU exercising its rights under this clause; and (b) it will indemnify KGF AU for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any and all prosecution, actions, demands, claims or proceedings brought by KGF AU in connection with retaking possession of the Product or the exercise by KGF AU of its rights under this clause, and the Customer must repay all such fees, costs, losses, damages, expenses or any other sums of money on demand.

16 **Notices:** Any notice to be given to a party under this document must be in writing and must be sent by post, facsimile or email to the address of that party shown in the quotation, purchase order or Sales Order Confirmation. Notice is deemed to have been given at the time it would have been received in the normal course of post if sent by post, or if otherwise given at the time it was actually received.

17 **Confidentiality:**

17.1 Each party (**Recipient**) agrees to maintain in confidence all confidential information and trade secrets disclosed by the other party (**Discloser**) (including without limitation all information in relation to the business, strategies, affairs or technology of the Discloser and the terms of any agreement between the parties) (**Confidential Information**) and ensure that the Confidential Information is kept confidential.

17.2 The Recipient agrees not to use the Confidential Information for any commercial purpose other than the exercise of the rights granted to it pursuant to this Agreement, and further agrees not to publish or disclose the Confidential Information to any third person without the prior written consent of the Discloser.

17.3 The Recipient agrees to take the same measures (being not less than reasonable measures) to protect the Confidential Information in its possession, as it takes to protect the confidentiality of its own confidential information.

17.4 The Recipient acknowledges and agrees that the Discloser is relying on these confidentiality provisions to protect its strategic and other business information.

17.5 The Recipient's obligations under this clause do not apply if: (a) the disclosure is required by law or the rules of any stock exchange; (b) the Confidential Information is already in, or enters into, the public domain other than by reason of a breach of this Agreement; or (c) the disclosure is only to its professional advisors to obtain professional advice and remains confidential.

17.6 The Recipient acknowledges that any breach of these confidentiality obligations by the Recipient may cause the Discloser irreparable harm for which damages would not be an adequate remedy. In addition to any other remedy available, the Discloser may seek equitable relief (including injunction or specific performance) against any breach or threatened breach of these confidentiality provisions.

17.7 Neither party may release public or media statements nor publish material related to the existence of this Agreement without the prior written approval of the other party.

17.8 These confidentiality obligations survive the termination or expiration of this Agreement.

18 **Intellectual Property:**

18.1 The Customer must ensure that it and all its agents, distributors and sub-distributors do not: (a) without KGF AU's prior written consent,

use any of KGF AU's intellectual property including trademarks, business names, domain names, designs, logos, aspects of packaging or slogans, or any trademarks, business names, designs, logos, aspects of packaging or slogans (**KGF AU Branding**) that are similar to or resemble any KGF AU intellectual property (whether or not they are likely to cause deception or confusion among the public); (b) register or attempt to register any intellectual property including trademarks, business names, domain names, designs, logos, aspects of packaging or slogans that are the same as or are deceptively similar to any of KGF AU's intellectual property; or (c) endanger, infringe, harm or contest the validity or ownership of any of KGF AU's intellectual property, or interfere with, or oppose the use or registration of any of KGF AU's intellectual property.

18.2 The Customer agrees and acknowledges that this Agreement does not transfer to the Customer title or ownership rights in any KGF AU Branding.

18.3 KGF AU grants to the Customer a non-exclusive, revocable, royalty free licence to use the KGF AU Branding for the sole purpose of reselling the Products, in accordance with any and all conditions notified by KGF AU in writing from time to time. The Customer may not sublicense its rights under this clause, or modify the KGF AU Branding in any way, without the prior written consent of KGF AU.

18.4 To the extent that the Customer makes any developments, modifications, enhancements or improvements to any KGF AU Branding, the Customer assigns to KGF AU, as and from the date of creation, all intellectual property rights subsisting with respect to the same. The assignment in this clause includes the right to take action in respect of any infringements which occurred before the date of the assignment. The Customer must, upon request by KGF AU, sign all documents and do all other things reasonably required to effect, perfect or register the assignment referred to in this clause.

19 **Dispute resolution:**

19.1 If a dispute arises in relation to this Agreement, either party must first give the other a notice requiring that an attempt be made to resolve the dispute with the help of a mediator to be appointed jointly by the parties. The mediation shall take place in accordance with the current Mediation Rules published by the Resolution Institute (**Rules**).

19.2 Unless otherwise agreed in writing, if the parties do not agree on a mediator within 5 Business Days after the notice is given, the mediator is to be appointed by Resolution Institute. Each of the parties must co-operate fully with the mediator. Each of the parties must pay an equal share of the fees and expenses the mediator is entitled to.

19.3 If the dispute has not been settled pursuant to the Rules within 60 days following the written invitation to mediate or within such other period as the parties may agree in writing, the dispute shall be resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce (**ICC ADR Rules**).

19.4 Unless otherwise agreed in writing, all disputes arising out or in connection with the present contract shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the ICC ADR Rules. The seat of arbitration shall be Brisbane, Australia. The language of the arbitration shall be English. An arbitration clause does not prevent any party from requesting interim or conservatory measures from state courts. The costs of any arbitration shall be shared equally between the parties.

20 **Liability for duty, taxes and charges:** The Customer agrees to pay KGF AU any duty, tax or charge (except a tax or charge imposed on, or calculated by reference to, the net income of KGF AU) that is payable in relation to this Agreement or the transactions which it records. The Customer must pay immediately when it receives a written request to do so.

21 **Anti-Bribery:**

21.1 The Customer agrees that (a) it shall not commit, authorise or permit any action which would cause KGF AU to be in violation of any applicable anti-bribery laws or regulations. This obligation applies in particular to illegal payments to government officials, representatives of public authorities or their associates, families or close friends; and (b) it will never offer or give, or agree to give, to any employee,

representative or third party acting on KGF AU's behalf nor accept, or agree to accept from any employee, representative or third party acting on KGF AU's behalf, any gift or benefit, be it monetary or otherwise, that could breach any law or policy applicable to KGF AU.

21.2 The Customer will notify KGF AU immediately if it becomes aware, has reason to believe or has any specific suspicion that there has been or will be a breach of this clause 21 or there was corruption involved with regard to the negotiation, conclusion or performance of this Agreement.

21.3 Any breach of this clause 21 by the Customer, its employees, agents or sub-contractors (whether with or without the knowledge of the Customer) will be deemed a material breach of this Agreement, and will entitle KGF AU to recover from the Customer the amount of any loss resulting from such material breach and to recover from the Customer the amount or value of any such gift, consideration or commission.

22 **Sanctions:** The Customer confirms it is not an entity, individual, or in a country that is subject to international sanctions, including those imposed by Australia and the United Nations. The Customer agrees not to sell, transfer, or otherwise distribute any products received from the Company to any countries, entities, or individuals that are subject to international sanctions, including those imposed by Australia and the United Nations.

23 **Miscellaneous:** If the Customer is not a natural person, the Customer must promptly notify KGF AU of any change in ownership or control of the Customer. Nothing in these Conditions is intended to exclude, restrict or modify rights which the Customer may have under any legislation which may not be excluded, restricted or modified by agreement. A party waives a right under these Conditions only if it does so in writing. Neither party may assign or otherwise deal with the benefit of any contract made pursuant to these Conditions without the consent of the other. This Agreement is executed in the English language and only the English language version of this Agreement is binding on the parties. Nothing in this Agreement creates a relationship of agency or partnership. If any provision of this Agreement is unenforceable, illegal or void, that provision is severed and the other provisions of this Agreement remain in force. Clauses 4 to 11 (inclusive) and 14 to 26 (inclusive) survive the termination of the Agreement.

24 **Governing law and jurisdiction:** This Agreement is governed by the law of Queensland, Australia. The parties submit to the non-exclusive jurisdiction of the courts of that place.

25 **Incoterms:** Any Incoterm referred to in this Agreement is a reference to that Incoterm as defined in Incoterms 2020.

26 **Definitions:** In these Conditions:

ACL means the Australian Consumer Law as contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

FAS means "Free Alongside Ship" at the port of shipment, as defined in Incoterms 2020.