JBS AUSTRALIA PURCHASE ORDER TERMS & CONDITIONS

1. Definitions

In these terms and conditions: -

1.1 **Business Day** means a day that is not a Saturday, Sunday or public holiday in Queensland.

1.2 **Confidential Information** means any of the Purchaser's confidential and commercially sensitive information relating to its property, business, affairs, trade secrets, financial, accounting, marketing and technical information, know-how, strategic or business information, concepts, plans, strategies, directions or systems.

1.3 **Contract** is defined in clause 2.1.

1.4 **FIS** means free into store.

1.5 **Force Majeure Event** means an event beyond the reasonable control of a party but does not include events which should have been contemplated or been reasonably foreseen by the party.

1.6 **Goods** means goods ordered by the Purchaser from the Supplier as specified in the PO.

1.7 **GST** means the applicable goods and services tax specified by Law, including the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the *Goods and Services Tax Act 1985* (NZ).

1.8 **HVNL** means the Law governing heavy vehicles, supply chains, and public road user safety, including but not limited to the Australian national law enforced through the national heavy vehicle regulator and contemplated by the *Heavy Vehicle National Law Act 2012* (Qld) (as amended) and Regulations, adopted in all states and territories with the exception of Western Australia (WA) and the Northern Territory (NT).

1.9 **Intellectual Property** means any intellectual and industrial property rights and interests (including common law rights and interests) including, without limitation, patents, trademarks, service marks, copyright, registered designs, trade names, symbols, and logos, and any application or right to apply for registration of any of those rights.

1.10 **Jurisdiction** means

(a) for supplies in Australia – the Laws of the State of Australia where the purchase order originated; and

(b) for supplies in New Zealand - the laws of New Zealand where our purchase order originated.

1.11 **Law** means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time anywhere in the Jurisdiction, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law as applicable from time to time.

1.12 **Personnel** of a party means the officers, employees, consultants, contractors (including subcontractors and their personnel) and agents of the party.

1.13 **PO** means the purchase order provided by the Purchaser to the Supplier for the order of Products, regardless of how transmitted.

1.14 **Price** means the price payable or the mechanism by which the price is to be calculated as set out on the PO.

1.15 **Products** means the Goods or Services or both.

1.16 **Purchaser** means the company named as purchaser in a PO, being Industry Park Pty Ltd (ACN 007 256 215) or any of its controlled entities (as defined in the *Corporations Act 2001* (Cth) (excluding listed entities), including but not limited to JBS Australia Pty Limited (ABN 14 011 062 338), Primo Foods Pty Ltd (ABN 67 002 781 142), Primo Retail Pty Ltd (ACN 144 761 482), JBS Pork Australia Pty Ltd (ACN 004 892 835), Diamond Valley Pork Pty Ltd (ACN 095 045 695), Andrews Meat Industries Pty Ltd (ABN 16 600 428 537), Seven Point Pork Pty Ltd (ABN 31 088 688 975), White Stripe Foods Pty Ltd (ACN 105 781 977), Huon Aquaculture Company Pty Ltd (ACN 067 386 109), and Premier Beehive NZ (NZCN 3820621).

1.17 **Q-fever** means an infection caused by *Coxiella burnetii*, a type of bacterium found worldwide (except New Zealand).

1.18 **Services** means the services required by the Purchaser to be provided by the Supplier as specified in the PO.

1.19 **Site** means the point or points of delivery specified in the PO or as otherwise notified by the Purchaser to the Supplier in writing.

1.20 **Supplier** means the legal entity named as such in a PO, including its legal representatives, administrators, successors, contractors and permitted assigns (and where more than one named, jointly and severally).

1.21 **Supply Agreement** means an executed supply agreement entered into between the parties in respect of the Products, including special conditions, standard terms and conditions and details schedule and any other attachments and annexures, under which the PO is issued.

1.22 **Business Associate Code of Conduct** means the Purchaser's Business Associate Code of Conduct and associated documents, including the Global Human Rights Policy, as updated from time to time, which are available on request or at: https://jbsfoodsgroup.com/businesses/jbs-foods-australia/jbs-australia-accreditations.

1.23 **T&C** means these standard terms and conditions.

2. Ordering and Acceptance

2.1 The issue of the PO is an offer to the Supplier to enter into a contract. The acceptance of the PO or supply of the Products by the Supplier constitutes acceptance of these T&C, which together with the PO will form the terms of the contract for the supply of Products, which is the entire agreement between the parties, and any prior agreements, arrangements or representations are excluded (except where there is a Supply Agreement, in which case the Supply Agreement applies) (the **Contract**).

2.2 Any variation to the Contract, including Price, specifications, delivery, amount or to the T&C must be agreed by both parties in writing.

2.3 To avoid doubt, when any acceptance of a PO or supply of Products by a Supplier is purported by that Supplier to be on terms other than the Contract, those other terms are disregarded and do not form part of the Contract, unless agreed to in writing by the Purchaser.

3. Price

3.1 The Price includes all costs and expenses of supplying the Products, including (where applicable):

(a) the cost of preparation, packaging and transportation to the Site;

(b) the cost of unloading of the Goods by the Supplier at the Site; and

(c) any applicable taxes, levies, imposts, charges and duties imposed or levied in Australia or overseas.

3.2 Prices are exclusive of GST unless otherwise specified in the PO.

3.3 Prices are FIS unless otherwise specified in the PO.

4. Invoice and Payment

4.1 The Purchaser is not obliged to pay the Supplier unless and until the Supplier has supplied the Products in

accordance with Contract and issued to the Purchaser a tax invoice which:

(a) is a tax invoice as defined by Law;

(b) identifies the Goods or Services for which payment is being invoiced;

(c) specifies the Site to which the Products were supplied;

(d) is in an amount specified or calculated as provided by the PO; and

(e) specifies a correct PO number.

4.2 Unless otherwise agreed in writing by the parties, the Purchaser will pay the Supplier for each correctly rendered invoice 45 days from whichever is later:

(a) the end of the calendar month in which the Products have been Supplied; or

(b) the end of the calendar month in which the Purchaser receives the invoice.

(c) For the avoidance of doubt, if payment of any correctly rendered invoice falls due on a day which is not a Business Day, the Customer will make payment to the Supplier on the following Business Day.

4.3 The Purchaser may deduct from the amount of an invoice any amount which has become due from the Supplier to the Purchaser whether under the Contract or otherwise.

5. Supplier's obligations and warranties

5.1 In supplying the Products, the Supplier will ensure, and warrants that:

(a) the Products will conform with their description and any applicable specifications provided by the Purchaser;

(b) the Products will comply with all Laws, recognised standards, any other industry standards, and any Australian Standards specified in the Contract;

(c) in supplying the Goods or performing the Services or both, and in the conduct of its business generally, the Supplier:

(i) will comply with all Laws (including, without limitation, those relating to environmental matters; data protection and privacy; wages, hours, and conditions of employment; contractor (including sub-contractor) selection; discrimination; occupational health and safety; motor vehicle, heavy vehicle and transport safety; and immigration);

(ii) will comply with the Business Associate Code of Conduct;

(iii) will not, and will ensure that its Personnel and suppliers will not:

a. directly or indirectly, offer or pay or receive any bribe;

b. directly or indirectly, offer, provide or authorise any improper payments, gifts, travel, entertainment or favours to any government official, commercial entity, Purchaser Personnel, or other person;

c. use child, slave, involuntary prisoner labour, or any other form of forced or involuntary labour or engage in abusive employment or corrupt business practices;

d. immediately notify the Purchaser in writing if:

i any Purchaser Personnel solicit any bribe, improper payments, gifts, travel, entertainment, or favours from any of the Supplier's Personnel;

ii it becomes aware of any fact, claim, or allegation that will or may cause the Supplier to be in breach of any of the warranties given under clause 5.1(c)(i)-(iii).

(v) if the Supplier gave the Purchaser a sample of the Goods, the Goods will conform with the sample, and the Supplier will retain the sample;

(vi) if the Supplier provided the Purchaser with a demonstration of the Services, the Services will correspond in nature and quality with the Services demonstrated;

(vii) the Services will be performed with the skill, care and diligence expected of a skilled and experienced professional contractor;

(viii) it has the necessary skills and expertise to be able to competently provide the Services and must supply all Personnel, premises, plant and equipment necessary for the proper provision of the Services;

(ix) the Goods will be new and of good merchantable quality;

(x) the Products will be fit for the purposes set out in, or which an experienced supplier or professional contractor would reasonably infer from, the Contract or a PO;

(xi) if the Goods carry any applicable manufacturer's warranty, which passes to the Purchaser, then the Supplier will either assign to the Purchaser, or hold on trust for the Purchaser, the benefit of any applicable warranty or guarantee that the Supplier has received in respect of the Goods;

(xii) the Goods will be free from lien, charge, or any other encumbrance or security interest;

(xiii) the Products will not infringe any Intellectual Property right of any person;

(xiv) it has and will maintain all necessary licences, approvals, permits and authorities in relation to the supply of the Products;

(xv) it will participate in and comply with any programme reasonably utilised by the Purchaser relating to contractor management and NHVL compliance;

(xvi) its supply chain is compliant in all respects with the HVNL;

(xvii) all information which it has provided to the Purchaser or any representative of the Purchaser is true and correct in every respect and is not misleading or deceptive.

5.2 The warranties in clause 5.1 apply in addition to any warranties implied by Law, and are not a waiver of any such implied warranties. These warranties (express or implied) survive delivery, inspection, acceptance and payment by the Purchaser.

6. Standards and non-conformance

6.1 The Purchaser or its nominee may, with the provision of reasonable notice to the Supplier, inspect all work in progress associated with the supply of the Products.

6.2 The Supplier must not interfere with the Purchaser's activities or the activities of any other person at the Site.

6.3 The Purchaser may, within a reasonable time after the supply of the Products, give notice to the Supplier that the Products or their supply breach the warranties in clause 5, are defective or otherwise do not conform to the requirements of the Contract.

6.4 If the Purchaser gives the Supplier a notice under clause 6.3 in relation to defective or otherwise non-compliant Products, the Purchaser must allow the Supplier a reasonable opportunity to inspect the alleged Products. If the Supplier disputes the notice provided in clause 6.3, the parties agree to follow the procedure outlined in clause 15.

6.5 If the Supplier does not dispute the notice provided under clause 6.3, the Purchaser may, acting reasonably, reject the Products affected and require the Supplier to either:

(a) rectify or replace the Goods or perform the Services again or both (as the case requires) within the timeframe specified in the notice so as to meet the requirements of the Contract; or

(b) refund or credit the Purchaser with the Price relating to the nonconforming Products.

6.6 If, due to a breach of clause 6.5 by the Supplier the Purchaser is required to engage a third party to rectify or replace the Goods or re-perform the Services or both (as the case requires), and where the costs and expenses for this work exceeds the relevant Price then the Supplier shall be liable to the Purchaser for the difference.

6.7 A party shall not charge, assign, transfer or otherwise deal with (including sub-contract) any of its rights and obligations under the Contract without the prior written consent of the other party.

6.8 The Supplier must not advertise or publish to any third party that it is or has been a supplier to the Purchaser under the Contract or any other arrangement between the parties, without the prior written consent of the Purchaser.

7. Timing and Delivery

7.1 Time is of the essence in the supply of the Products and the Supplier must supply the Products to the Purchaser:

(a) by the date specified in the PO; or

(b) promptly if no time, period or date is specified in the PO.

7.2 If the Products are not delivered by the Supplier in accordance with clause 7.1(a) or (b) the Purchaser may, acting reasonably, rescind or terminate the Contract (or part thereof) or the Purchaser may negotiate with the Supplier in good faith to agree to any alternative delivery time. The parties agree and acknowledge any revised delivery time must be agreed to in writing.

7.3 The Supplier must, at its cost:

(a) deliver the Goods to the Site in the manner specified in the PO (or as otherwise directed by the Purchaser);

(b) professionally and safely package, label (including PO and item number, Site, contents, quantity, and date and method of dispatch) and transport the Goods to the Site;

(c) ensure that the Goods are transported to the Site in accordance with the HVNL, and

(d) at the time of delivery of the Goods or the performance of the Services (or as soon as reasonably practicable thereafter) provide the Purchaser with all certificates, licences, clearances, data and labels relating to the Products required either by Law or the Purchaser.

7.4 All extraneous or unusual transport costs incurred in ensuring timely supply of the Products will be at the Supplier's expense.

7.5 The quantity of Goods and scope of Services supplied by the Supplier must meet (and not exceed) those specified on the PO or as otherwise notified by the Purchaser to the Supplier in writing.

7.6 The Purchaser may return Goods excess to the amount referred to in clause 7.5 to the Supplier at the Supplier's expense.

8. Title and Risk

8.1 Title to the Goods will pass to the Purchaser on the earlier of payment in full or sale or other use by the Purchaser in the ordinary course of its business.

8.2 Risk in the Goods will pass to the Purchaser when it takes delivery, inspects and accepts the Goods.

9. Confidential Information & Intellectual Property

9.1 Each party must ensure, and procure that its Personnel ensure, that all Confidential Information of the other party of which it becomes aware is kept confidential and is not disclosed to any person at any time or in any manner, except with the prior written consent of the other party or as required by Law.

9.2 All Intellectual Property created by either party throughout the performance of the Contract vests in the Purchaser.

10. Indemnity and Liability

10.1 The Supplier shall be liable for and shall indemnify and keep indemnified the Purchaser, and its officers, employees and agents (Indemnified Persons), as a continuing indemnity, against all legal proceedings, demands, costs, losses, liabilities, damages and expenses (including legal and other professional costs on a full indemnity basis) (jointly and severally Claims) which may be sustained by or made against an Indemnified Person arising directly or indirectly out of or in connection with:

(a) any breach by the Supplier of its obligations or warranties under the Contract;

(b) any death or injury to persons, and any loss or damage to the real or personal property of the Purchaser or a third party, caused by or arising out of the performance of or in connection with the Contract; or

(c) any act or omission by the Supplier or its Personnel in connection with the Contract, where there was fault (including, without limitation, any negligent or otherwise tortious act or omission) on the part of the person whose conduct gave rise to that liability, loss, damage or expense.

10.2 The Purchaser shall be liable for and shall indemnify and keep indemnified the Supplier, and its officers, employees and agents (Indemnified Persons), as a continuing indemnity, against all legal proceedings, demands, costs, losses, liabilities, damages and expenses (including legal and other professional costs on a full indemnity basis) (jointly and severally Claims) which may be sustained by or made against an Indemnified Person arising directly or indirectly out of or in connection with:

(a) any breach by the Purchaser of its obligations or warranties under the Contract; or

(b) any act or omission by the Purchaser or its Personnel in connection with the Contract, where there was fault (including, without limitation, any negligent or otherwise tortious act or omission) on the part of the person whose conduct gave rise to that liability, loss, damage or expense.

10.3 A party's liability to indemnify those indemnified under clause 10.1 and 10.2 will be reduced proportionately to the extent that any negligent or other tortious act or omission of the Indemnified Persons, or its Personnel (other than the Supplier in the case of the Purchaser) contributed to the relevant liability, loss, damage, or expense.

10.4 The Supplier acknowledges and accepts that in supplying Goods to or performing Services for the Purchaser there may be a risk of the Supplier or any of its Personnel (including subcontractors and their personnel) and agents contracting Q-Fever.

10.5 Without in any way limiting the generality of clause 10.1, the Supplier releases and indemnifies the Purchaser and other Indemnified Persons, from and against all Claims arising directly or indirectly out of or in connection with the contraction or alleged contraction of Q-Fever by

the Supplier or any of its Personnel (including subcontractors and their personnel) caused by or in connection with or arising out of the performance of or in connection with the Contract, irrespective of the extent to which any act or omission of an Indemnified Person caused or contributed to the contraction of Q-Fever.

11. Insurance

11.1 During the term of the Contract the Supplier must hold, maintain and comply with the following insurance policies with a reputable insurer sufficient to cover the liability of the Supplier arising out of the Contract:

(a) general and public liability insurance against personal injury (including death) and property damage for no less than AU$20,000,000 per occurrence (unless otherwise varied in writing by the Purchaser);
(b) where the Contract includes the supply of Goods, product liability insurance;
(c) where the Contract includes the supply of professional
(d) Services, professional indemnity insurance;
(e) workers' compensation insurance for the amount and to the extent required by Law; and
(f) any other insurance reasonably required by the Purchaser.

11.2 If requested by the Purchaser, the Supplier must provide to the Purchaser copies of insurance certificates of currency, including details of limits on cover, and any other evidence of insurances maintained.

12. Safety

12.1 The Supplier must:

(a) be, and procure its Personnel are, aware of and comply with:
(i) all of the Purchaser's rules, policies, standards, codes of conduct, directions and procedures applicable to the Site or relevant to the performance of the Contract;
(ii) the Purchaser's contractor management system, presently Beakon, (as varied from time to time)
(iii) the Purchaser's safety management system (as varied from time to time);
(iv) any lawful directions given by the Purchaser or its Personnel in respect of workplace health and safety matters, HVNL and all other Laws relating to the business of the Purchaser.
(b) ensure that the Supplier's Personnel entering the Site to supply the Products in a safe manner and in a way that does not prejudice safe working practices, safety and care of property and continuity of work at the Site; and
(c) provide all such information and assistance as the Purchaser reasonably requires in connection with any statutory or internal health and safety, HVNL, environment or community investigation in connection with the Contract or its performance.

12.2 Nothing in the Contract is to be construed as requiring a party to, or requiring a party to direct another to, act in contravention of the HVNL or any other Law.

13. Termination

13.1 A party may terminate the Contract immediately by notice in writing to the other party if:

(a) the other party commits a breach of the Contract which is capable of remedy and does not remedy that breach within 7 days of receipt of notice requiring it to do so;
(b) the other party fails to comply with a material obligation, undertaking or warranty under the Contract and that failure is not, on any reasonable or economic basis capable of remedy; or
(c) the other party ceases to be able to pay its debts as they become due, ceases to carry on business, commits an act of bankruptcy or becomes an externally administered body corporate.

13.2 Either party may terminate this Contract for its convenience by providing 30 days' written notice to the other party. In the event of termination under this clause, the Supplier will cease the provision of Goods and Services as agreed, and the Purchaser will pay the Supplier for all Goods delivered and Services performed up to the effective date of termination.

13.3 If the Contract expires or is terminated for any reason:

(a) each party must return or destroy, or if unable to do so securely archive, (as directed by the other party) any Confidential Information or other property of the other; and
(b) each party maintains any other rights available to them under the Contract and any other legal and equitable remedies.

14. Force Majeure

14.1 A party (**affected party**) is not liable for any delay or failure to perform an obligation (other than to pay money) under the Contract caused by a Force Majeure Event, and the performance of the affected party's obligation is suspended for the period of the delay or failure, but only if the affected party notifies the other party as soon as practicable of the anticipated delay or failure, and promptly and diligently acts to mitigate the Force Majeure Event and its effect.

14.2 If performance of an obligation is prevented by a Force Majeure Event, or if a delay caused by a Force Majeure Event exceeds one calendar month, the party who is not the affected party may terminate the Agreement by providing 10 Business Days' written notice to the affected party.

15. Dispute resolution

15.1 Before commencing litigation the parties must attempt to resolve a dispute thus:

(a) a party claiming that a dispute has arisen, must give written notice to the other specifying the nature of the dispute;
(b) following which the parties must seek to resolve the dispute by consultation between their respective senior officers;
(c) following which (if not resolved) within 5 Business Days refer the matter to the Australian Disputes Centre (**ADC**) or its equivalent from time to time or in the Jurisdiction, for mediation;
(d) if the dispute has not settled within 20 Business Days after appointment of the mediator, either party may commence litigation in relation to the dispute; and
(e) despite the existence of a dispute, the parties must continue to perform their respective obligations under the Contract.

15.2 Nothing in clause 16.1 will prevent a party from seeking injunctive relief where damages may be an inadequate or inappropriate remedy.

16. General

16.1 The parties accept the laws of the State of Queensland or New Zealand (whichever is applicable as the case may be) as the proper law of the Contract and both parties submit to the jurisdiction of the courts of the State of Queensland or New Zealand (which is applicable as the case may be).

16.2 If any provision of the Contract is unenforceable then the provision must be read down or words removed from it to the extent that it can be saved, but if not then it must be severed from the Contract. That will not

affect the validity of the other provisions of the Contract.

16.3 A provision of the Contract or a right created under it may not be waived except in writing signed by the party granting the waiver.

16.4 The Supplier acknowledges that it has had the opportunity to obtain independent legal and financial advice before entering into the Contract.

16.5 Each party must bear its own costs in relation to the negotiation and preparation of the Contract.

16.6 The Supplier must pay all stamp duty, registration and other fees associated with the performance of the Contract and required to be paid by Law.