



**GLOBALTM
DAIRY
TRADE.**

**GDT MARKETPLACE
PARTICIPATION
AGREEMENT**

**MARCH 2016
VERSION 1.0**

GDT MARKETPLACE PARTICIPATION AGREEMENT

These terms and conditions outline the basis on which GlobalDairyTrade Holdings Limited ("**GDT**") is willing to provide Participants with access to, and use of, the Platform and the Services. These terms and conditions constitute a legally binding agreement ("**Agreement**") between each Participant and GDT.

GDT may make changes to any part of this Agreement at any time. When such a change is proposed, GDT will notify Participants of that change, as well as the date that the change will take effect. Each Participant is responsible for ensuring that it (and all of its Users) have read and understood the latest version of this Agreement. By continuing to access and use the Platform and the Services, each Participant represents that it accepts, and agrees to be bound by, the latest version of the Agreement. If, following any such amendment, any Participant no longer agrees to be bound by this Agreement (as amended), it must immediately notify GDT and discontinue its use of the Platform and the Services.

1 REGISTRATION AS A PARTICIPANT

1.1 How to register as a Participant

Unless otherwise approved by GDT, the Platform and the Services may be accessed and used only by Participants. A person may apply to register as a Participant by submitting an application in the manner prescribed by GDT from time to time on the public section of the Website.

1.2 Registration warranties

By submitting an application, each applicant warrants and represents that:

- (a) it has all necessary power, authority and capacity to enter into and carry out its obligations under this Agreement;
- (b) the entry into, and performance of, this Agreement, will not result in violation of any laws, restrictions or requirements to which the applicant is subject; and
- (c) it makes the application, and enters into this Agreement, as a principal (and not as an agent or in any other capacity whatsoever).

1.3 Accuracy of application

An applicant must provide the standard information requested by GDT on the Website, as well as any additional information requested by GDT that is relevant to its assessment of the application. Each applicant warrants and represents that the information it provides in its application is complete and accurate. Each Participant whose application is accepted is responsible for updating any of the information provided by it in its application if that information changes while it is a Participant.

1.4 Acceptance does not confer approval to buy

Acceptance as a Participant does not confer on that Participant the approval to buy products that are listed on the Platform. Approval to buy products will arise only if a Seller has enabled that Participant to buy its products in accordance with clause 5.3.

1.5 Discretion to decline to register

GDT reserves the right, in its absolute discretion, to decline to register any person as a Participant (or as a User), without the requirement to provide any reasons. Without limiting that discretion, GDT will not consider an application by a person to be registered as a Participant unless that person has a genuine intention to use the Platform and the Services as a procurement or sales tool (as applicable).

1.6 Authorised Users

One or more individuals may be authorised by a Participant to use its account (each a "**User**"). Each User must have his or her own login credentials and will be required to acknowledge that they have read and understood the terms and conditions of this Agreement before proceeding to access and use the Platform and the Services. Each Participant warrants and represents that all of its Users are duly authorised to act on its behalf and to represent it in all matters relating to the Platform and the Services. In no event will GDT be required to enquire as to the authority of any User to bind the relevant Participant.

1.7 Responsibility for Users

Each Participant will procure that its Users comply at all times with this Agreement (as if its Users were Participants) and will be bound by, and liable for, all acts and omissions of such Users.

1.8 Login information

Each Participant is responsible for keeping, and ensuring that each of its Users keep, its login information, including its user name and password, secret and secure. Without limiting the foregoing, no Participant will:

- (a) permit any unauthorised person to use its (or any of its Users') user name or otherwise gain access to its account (or any of its Users' accounts); or
- (b) disclose, or provide to any unauthorised person, its (or any of its Users') password, email address, user name or any other information in connection with its registration that may allow them to gain access to its account (or any of its Users' accounts).

If any Participant fails to comply, or to procure that any of its Users comply, with this clause 1.8, that Participant agrees that it will be bound by, and liable for, any actions taken by any unauthorised person accessing the Platform or the Services using that Participant's account. For the avoidance of doubt, in no event may a User share his or her user name or password with, or otherwise grant access to his or her account to, any other User of the same Participant.

2 CONTRACTS BETWEEN PARTICIPANTS

2.1 Contract between Participants

The Platform is designed to provide a venue for Participants to buy and sell dairy products. GDT does not itself take part in the sale of any such products, other than by providing access to the Platform and the Services to Participants via the Website. When a product is sold on the Platform, a binding contract of sale is formed between the Seller and the successful Buyer(s) on the terms disclosed to the Buyer(s) under clause 5.4 (each a "**Contract**").

2.2 GDT not a party to Contracts

GDT is not a party to, and is not liable or responsible for, any Contract that is entered into between Participants, nor does GDT act as an agent for any such party to a Contract. Disputes between Participants under a Contract are governed by the terms of that Contract. It is not the responsibility of GDT to resolve, or be involved in, any such disputes.

2.3 GDT not auctioneer

Even though certain of the Services are referred to as an "auction", GDT is not an auctioneer (whether under the Auctioneers Act 2013 (NZ) or otherwise).

2.4 Participation at Participant's risk

The access to and use of the Platform and the Services is undertaken entirely at each Participant's own risk. GDT is not liable or responsible for any misconduct or misrepresentation on the part of any Participant whatsoever, and gives no undertakings, representations or warranties in relation to products listed and/or sold on the Platform, including the availability, merchantability or delivery of any such products.

3 ACCESS

3.1 Access as available

The Platform and the Services are provided by GDT on an "**as is**" and "**as available**" basis. Neither GDT nor any of its Affiliates make any representation or warranty (whether express or implied) as to the availability, timeliness, accuracy or the completeness or fitness for any particular use or purpose of the Platform and the Services or any information contained therein. Each Participant acknowledges that the Platform and the Services are only being used for the purposes of a business and not by any individual consumers or for personal use. The provisions of the Consumer Guarantees Act 1993 (NZ) and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 (NZ) do not apply.

3.2 Downtime

The use of the Platform and the Services may not be uninterrupted or error free, as the operation and availability of the Platform and the Services, including computer networks and the Internet, can be unpredictable and may from time to time prevent access by Participants. In addition, the Participants acknowledge that GDT will need to undertake both routine and unforeseen maintenance on the Platform from time to time which may affect the operation or availability of the Platform and/or the Services during that period of maintenance.

3.3 No interference

No Participant shall damage, interfere with or harm the Platform or the Website, or any network or system underlying or connected to them, or otherwise attempt to do so, including by using any unauthorised automated means to access or interfere with the Platform or Website or any information featured on it for any purpose.

3.4 Restrictions

GDT reserves the right, in its sole discretion and without prior notice, to restrict access to the Platform and the Services or to subject the use of the Platform and Services to other conditions. In particular, the use of the Platform and the Services may vary for different regions and countries (and may not be available in certain regions or countries at all). No representation or warranty is given that the same type and extent of Services, or that all of the features of the Platform, will be available to all Participants.

3.5 Third party content

GDT may allow Participants to access content, products or services offered by third parties through hyperlinks (in any form), application programme interfaces or otherwise. Each Participant acknowledges that GDT has no responsibility or liability to any person whatsoever in respect of such websites, or any content, products or services made available on such websites or elsewhere by any third party.

4 CONDUCT OF PARTICIPANTS

4.1 General obligation

No Participant may take any action, or omit to take any action, if the act or omission will have, or may have, the effect of creating or causing a false or misleading appearance of the level of participation, supply or demand in a listing on the Platform, and that Participant knows, or ought reasonably to know, that its acts or omissions will, or are likely to have, that effect.

4.2 No shill bidding

A Participant must not, directly or indirectly, bid on its own listing or conduct shill-bidding or otherwise manipulate prices by assuming, directly or indirectly, multiple roles in a single transaction.

4.3 Participation by Affiliates

A Participant may participate in an Affiliate's listing if, and only if:

- (a) that participation does not breach clauses 4.1 and 4.2;
- (b) there is a legitimate reason for that Participant to buy products from its Affiliate through the Platform instead of through any other means; and
- (c) the Participant notifies GDT on each occasion that it participates in an Affiliate's listing, provided always that GDT reserves the right to halt and/or terminate any listing if it has reason to believe that a Participant has engaged in, or intends to engage in, any shill bidding or market manipulation practices, or has attempted to do so.

4.4 Unlawful communications

A Participant must not engage in any unlawful communications with any other Participant via the Platform. Participants will not, at any time, directly or indirectly, communicate, or enter into any agreement, arrangement or understanding, with any other person with respect to:

- (a) whether or not they will participate in any listing on the Platform (other than any bona fide

communications or advertising undertaken by a Seller to encourage Buyers to participate in any of its listings on the Platform, or any bona fide communications by a Buyer requesting to participate in a Seller's listings);

- (b) the amount of any bids or purchases expected to be submitted by any Buyer (other than any bona fide communications between a Seller and a Buyer about a Buyer's interest or likely level of participation in a listing);
- (c) the bidding or sales strategies of any Participant; or
- (d) any action that is intended to, or may, have the effect of manipulating or coordinating the outcome of a listing on the Platform,

provided that this clause does not prohibit or restrict disclosure to GDT (in accordance with this Agreement) or any independent consultant or lawyer representing the Participant, or any independent person that is providing financing to the Participant for the purposes of acquiring products in the relevant listing.

4.5 Integrity of feedback

No Participant shall do anything which may bring the Platform into disrepute or undermine the integrity of the Platform or its feedback and/or rating system (if any), such as by leaving a positive comment about itself or by leaving unsubstantiated negative feedback or ratings for another Participant (whether via the Platform or through any other forum). GDT reserves the right, in its absolute discretion, to remove any or all feedback and/or ratings posted by a Participant via the Platform.

4.6 Liability for content

Each Participant is solely responsible and liable for the content and accuracy of any information, material, listings and/or communications it publishes, or causes to be published, on the Platform or the Website. GDT does not monitor, edit, endorse, verify or otherwise certify the content of any information, material, listings and/or communications made or provided by Participants. If any Participant becomes aware of any issues arising in relation to any such content published on the Platform or the Website, it must immediately notify GDT (in which case GDT may, but is not obliged to, exercise its discretion under clause 9.4).

4.7 Account monitoring

Each Participant acknowledges and agrees that GDT may, from time to time, access the account of any Participant (or any of its Users) on the Platform in order to monitor or verify that Participant's (or its Users') compliance with this Agreement. Notwithstanding this right, GDT is under no obligation to monitor any Participant's (or its Users') conduct on the Platform, including any communications conducted through or posted on the Platform.

4.8 Compliance with guidelines

By continuing to use the Platform, each Participant acknowledges that they have read and understood the Platform Conduct Principles & Guidelines and agrees to comply, and procure that its Users comply, with the Platform Conduct Principles & Guidelines.

4.9 Compliance with laws

Each Participant is solely responsible for complying (and ensuring that its Users comply) with all laws and regulations of all applicable jurisdictions, including anti-trust / competition, commercial and securities laws.

4.10 No spamming

No Participant shall engage in any spamming or phishing on the Platform or otherwise use or attempt to use the Platform for an illegal purpose.

4.11 Reporting

If, at any time, any Participant becomes aware that any of the prohibited actions or communications set out in this clause 4 are or may be occurring, it must promptly report any such issues to GDT. GDT may require a Participant to provide information to satisfy it that neither that Participant nor any of its Users or Affiliates has engaged, nor intends to engage, in conduct that would breach this clause 4.

5 SPECIFIC RULES APPLICABLE TO SELLERS

5.1 Listings

A Seller must only make a listing in respect of products that it is legally entitled to sell and deliver to the successful Buyer(s).

5.2 Content of listing

All listings published on the Platform must be made in good faith, and must be accurate and complete, and must remain so for the duration of the listing. A listing must not:

- (a) be false, misleading, deceptive or unsubstantiated;
- (b) include any content that has, or may have, the effect of bringing GDT, the Platform or the Services into disrepute, as determined by GDT in its sole discretion;
- (c) violate any applicable laws and regulations (including those governing export controls, consumer protection, unfair competition or false or misleading advertising) or promote any activities which may violate any applicable laws or regulations; or
- (d) include anything that is offensive (including anything that is defamatory, libellous, threatening, pornographic or racially objectionable) or which infringes copyright or other intellectual property rights of a third party.

5.3 Selection of Buyers

A Seller must approve which Buyers may participate in that Seller's listings, but has no obligation to approve any Buyer. Buyers may contact a Seller requesting that they be approved for a listing. A Seller may only approve a Buyer's eligibility for the purpose of potentially selling products to that Buyer and not for any other reason, including for the purpose of allowing that Buyer to monitor information disclosed through a Seller's listings without any intention to participate in that Seller's listings. GDT does not have authority to approve a Buyer on behalf of a Seller without that Seller's consent or to require a Seller to approve a Buyer.

5.4 Terms and Conditions

A Seller must provide to each approved Buyer a copy of the terms on which that Seller is prepared to sell the listed product to that Buyer (if it is successful), including the Incoterm that is to apply to that sale. A Seller may only make changes to such terms prior to any bids or purchases having been submitted in respect of a listing, and then only if the Seller has first notified each of the approved Buyers impacted by the change. A Seller may:

- (a) apply different terms (other than in respect of the price) to different Buyers, including by requiring additional charges to be paid by a particular Buyer in addition to the price(s) at which the listing is won (for example, in relation to additional freight, insurance or provision of health or other certification requirements), in which case such terms will be provided to each such Buyer at the time at which the Seller approves that Buyer's participation in its listings (as amended by the Seller from time to time); or
- (b) upload in its listing (at the time at which the listing is first published) the terms that will apply to all approved Buyers (or any approved Buyers in respect of which no specific terms have been provided in accordance with subclause (a) above).

5.5 Visibility of prices

If a Seller elects to list a product on the Platform with:

- (a) a fixed price or a starting price, that price will be disclosed only to Buyers that have been approved by the Seller to participate in the listing; or
- (b) a reserve price, that reserved price will remain confidential to the Seller at all times.

5.6 No avoidance

Once a listing has been made by a Seller, and for the duration of that listing, the Seller must not sell the particular parcel of products contained in that listing outside of the Platform or otherwise seek to avoid the

fees payable to GDT. Without prejudice to any other rights or remedies available to GDT, any attempts by a Seller to avoid the fees payable to GDT, including through premature withdrawal of a listing, may result in GDT suspending or terminating that Seller's access to and use of the Platform and the Services in accordance with clause 9.

5.7 Exclusive sale

Each Seller acknowledges that, in listing a particular parcel of products on the Platform, it does so with the intention of selling those products via the Platform. Each Seller agrees that it will not sell the particular parcel of products that is the subject of a listing through another forum for the duration of the listing (but may advertise its products generally via alternative forums, including in respect of the types of products the subject of a listing).

5.8 Modification of listing

Each Seller acknowledges that the Platform may limit or restrict the ability to modify a listing after it is published. Without limiting clause 5.9(a), once a listing has been published, a Seller may only amend that listing (or any part of it) to the extent permitted by the Platform.

5.9 Withdrawal of listing

(a) A Seller may withdraw a listing:

- (i) prior to any bids or purchases having been received by a Buyer in relation to that listing, provided always that it has a bona fide reason for doing so; or
 - (ii) after a bid or purchase has been received in relation to that listing, provided always that:
 - A. it has a bona fide reason for doing so;
 - B. it has obtained GDT's prior written consent; and
 - C. in the case of the withdrawal of a listing to be undertaken by way of a tender or auction, it has resolved any issues with the Buyer(s) that have already submitted a bid in respect of the listing (and notified GDT of the steps taken to ensure such resolution); or
 - D. in the case of the withdrawal of a partially sold fixed price listing, such withdrawal does not invalidate a purchase that has been submitted prior to the withdrawal of the listing.
- (b) If a listing is withdrawn, the Seller is not entitled to recover any listing fees paid or payable to GDT in respect of that withdrawn listing.
- (c) Without prejudice to any other rights or remedies available to GDT, GDT may, either in response to a notification made by a Participant under clause 4.6 or otherwise of its volition, halt or terminate any listing that does not, in GDT's sole opinion, comply with this Agreement.

5.10 Seller to contact Buyers

Following the successful completion of a listing, a Seller must contact each successful Buyer for its product in a timely manner and take such action as is required to give effect to the sale on the terms set out in the relevant Contract. If the successful Buyer is an Affiliate of the Seller, the Seller must promptly notify GDT of that fact.

5.11 Failure to complete transaction

If a Seller completes a listing and fails to deliver the products bought by the successful Buyer or otherwise fails to comply with the Contract (as determined by GDT based on the information available to it), then, without prejudice to clause 2.2 and without limiting any rights the Buyer may have under the Contract or at law, GDT may, in its sole discretion, issue the Seller with a warning, or may suspend or terminate that Seller's access to and use of the Platform and/or the Services.

6 SPECIFIC RULES APPLICABLE TO BUYERS

6.1 Bids and purchases

A Buyer that has been approved by a Seller to participate on a listing is under no obligation to submit a bid or otherwise purchase products that are the subject of the listing. Once a Buyer submits a bid or purchase on a listing, it is not retractable, except in circumstances where a listing is undertaken by way of a tender (in which case a bid is retractable by a Buyer up until the time at which the tender closes).

6.2 Representation

A Buyer must only submit a bid or purchase if it intends to buy the relevant product at the price and quantity entered (in respect of a listing to be undertaken by way of a tender or auction) or listed (in respect of a fixed price listing). By submitting a bid or purchase (as applicable), a Buyer warrants and represents to the Seller that it has the legal right to enter into and complete the transaction on the terms of the Contract.

6.3 Demand visibility

In certain circumstances, GDT may (but is not obliged to) make available to a Seller information concerning the quantity or price of the unsuccessful bids submitted in respect of that Seller's listing, provided that such information does not identify, or enable a recipient of the information to identify, the identity of any unsuccessful Buyers or their bidding conduct. The Seller will be informed of the identity of the successful Buyer or Buyers, together with the winning price and quantity established for each Contract between such parties.

6.4 Successful Buyers

- (a) Once a Buyer has been notified that it has been successful on a listing, it must complete the transaction on the terms of the Contract.
- (b) Except to the relevant Seller, the identity of each successful Buyer will remain confidential. In relation to specific listings, in no event will GDT publish or otherwise disclose that Buyer's identity to any party other than the relevant Seller.

6.5 Failure to complete transaction

If a Buyer is successful on a listing and that Buyer fails to pay the Seller for the products in respect of that listing or otherwise fails to comply with the Contract (as determined by GDT based on the information available to it), then, without prejudice to clause 2.2 and without limiting any rights the Seller may have under the Contract or at law, GDT may, in its sole discretion, issue the Buyer with a warning, or may suspend or terminate that Buyer's access to and use of the Platform and/or the Services.

7 GDT PUBLICATION

7.1 Publication of information, statements and surveys

Subject to clause 7.2, GDT may publish on the Website or otherwise disclose to any person:

- (a) aggregated information generated through the Platform, including information relating to the type, quantity, price and value of products sold on the Platform;
- (b) public statements relating to the Platform, including statements which summarise the results of listings and/or set out GDT's future intentions for the Platform; and
- (c) the results of any Participant surveys undertaken by GDT.

7.2 Certain information not published

GDT will not publish on the Website or otherwise disclose to any person (except to a Seller in relation to its own listing and to the relevant successful Buyer(s)) the prices at which any particular listing is successfully completed or refer to or identify the successful Buyer or Buyers in respect of any particular listing or the bidding conduct of any Participant.

7.3 Identity of Buyers of specific products

GDT may provide to a Seller (or to a third party interested in registering as a Participant with a view to

becoming a Seller) a list of the Buyers who have previously purchased specific products offered on the Platform, provided that such information may not include the quantity or price of products bid for or purchased by any Buyer on the Platform.

7.4 Advertising of Participants

Subject to clause 7.2, GDT may advertise, publish or otherwise disclose to any person:

- (a) the identity of any Participants that are using the Platform to buy or sell products from time to time; and
- (b) any other general information relating to the Platform that is made available to Participants by reason of them being a Participant (which, for the avoidance of doubt, does not include any information made available to a Participant by virtue of the fact that it has been approved for a particular listing).

8 LIMITATION OF LIABILITY AND INDEMNITY

8.1 No liability

To the maximum extent permitted by law, neither GDT nor any of its Affiliates (together the "**Protected Persons**") shall be liable to any person in connection with, or relating to, the Platform or the Services, whether arising under this Agreement or otherwise. If, despite the previous sentence, any liability on the part of a Protected Person in connection with, or relating to, this Agreement or the provision of the Platform or the Services, cannot be lawfully excluded, that Protected Person's liability (howsoever arising, including by way of negligence) will be limited to the amount of the Fees paid to GDT by the Participant over the previous 12 months.

8.2 Costs

Under no circumstances will any Protected Persons be liable for any costs or expenses incurred by a Participant as a result of it participating in, or attempting to participate in, any listing on the Platform.

8.3 Indemnity

Each Participant indemnifies, and will keep indemnified and will hold harmless, each Protected Person from and against any and all losses, costs, damages, claims, demands, liabilities, investigations or causes of action ("**Loss**") arising directly or indirectly from that Participant's (or any of its Users'):

- (a) access to or use of the Platform and/or the Services, including but not limited to:
 - (i) any content published on the Platform; or
 - (ii) in respect of claims asserted by other Participants or third parties relating to that Participant's use of the Platform and/or Services;
- (b) wilful or unlawful act or omission;
- (c) breach of this Agreement, including but not limited to any use or attempted use of the Platform or Services in breach of this Agreement or any applicable law or regulation;
- (d) loss, misuse or failure to properly secure its user names and passwords; or
- (e) breach of any Contract for the sale and purchase of products.

8.4 Privity

To the extent that this Agreement (including clauses 8.1 to 8.3) confers benefits on any Protected Person, it shall be enforceable by such person in accordance with the terms of the New Zealand Contracts (Privity) Act 1982.

9 TERMINATION, SUSPENSION AND BREACH

9.1 Termination by Participant

A Participant may terminate this Agreement at any time on 21 days' written notice to GDT.

9.2 Termination by GDT

GDT may terminate this Agreement with respect to a particular Participant immediately on written notice to that Participant if it:

- (a) has been inactive on the Platform for a period of more than 18 months;
- (b) breaches this Agreement (in GDT's reasonable opinion) and, if such a breach is capable of remedy, fails to remedy that breach to GDT's reasonable satisfaction within seven days after receiving written notice from GDT to remedy the breach;
- (c) undergoes an Insolvency Event; or
- (d) undergoes any direct or indirect change of control, or direct or indirect change in the legal or beneficial ownership of more than 25% of its share capital, securities, possession of voting power or by contract, trust or otherwise, either by a single event or series of events over any period of time where such an event means that the Participant (in the reasonable opinion of GDT) no longer satisfies GDT's acceptance criteria.

9.3 Termination for discontinuation

GDT may terminate this Agreement with all Participants if it elects to discontinue the Platform.

9.4 Suspension or other actions

If GDT has reason to believe (in its sole opinion) that a Participant has breached this Agreement, GDT may, at any time and without liability, suspend that Participant (and/or any of its Users) from accessing or using the Platform, halt or terminate any of that Participant's current listings or otherwise take such other action as GDT deems necessary, advisable or expedient in the circumstances. If a Participant or User is so suspended, then GDT may, as a condition of permitting the Participant or User to recommence accessing or using the Platform, impose such conditions as it thinks fit, including a condition requiring the Participant or User to provide pre-listing and success deposits.

9.5 Publication of breach

If GDT has reason to believe (in its sole opinion) that a Participant has breached this Agreement, GDT also reserves the right to publish details of such breach on the Website.

9.6 Accrued rights

Termination of this Agreement by GDT with respect to any Participant shall be prospective only and shall be without prejudice to any accrued rights, benefits or obligations of GDT or any third party beneficiary and will not relieve such Participant of any obligation to conclude the sale or purchase of any product in respect of which the Participant is the successful Seller or Buyer, or relieve such Participant of any breach of this Agreement prior to such termination. For the avoidance of doubt, all provisions of this Agreement providing for any limitation on liability, disclaimer of liability, rights of indemnification or third party beneficiary rights shall survive termination of this Agreement.

10 PLATFORM FEES

10.1 Fees

The fees payable by Participants are as set out on the Website or as otherwise notified to a Participant by GDT. The fees payable by Participants may be amended by GDT from time to time by publication of such amendment on the Website, or by notification to a Participant, in each case no later than three months before such changes take effect. The fees payable at the time that a Seller lists a product will apply to that listing notwithstanding the fact that a change to the fees made by GDT may take effect part way through that listing.

10.2 Payment

Fees must be paid in the manner specified by GDT on the Website.

10.3 GST

The fees are exclusive of any goods and services tax, value added tax or similar tax payable by GDT,

which shall be paid by Participants in addition to and at the same time as the fees (or when otherwise invoiced for such tax).

10.4 Withholding

If any withholding or deduction is required by law to be made from payment of the fees to GDT, the amount of the payment due from the relevant Participant(s) will be increased to an amount which (after making such withholding or deduction) will ensure that GDT receives and retains an amount equal to the payment which it would have received and retained if no withholding or deduction had been required.

11 DISPUTES

11.1 Dispute

If any dispute, difference or claim arises out of or in connection with this Agreement, or the subject matter of this Agreement ("**Dispute**"), one party may give notice to the other party of the Dispute ("**Dispute Notice**"), upon which GDT and the relevant Participant will attempt to resolve the Dispute between them.

11.2 Arbitration

If the parties cannot resolve the Dispute within a reasonable period of the date of receipt of the Dispute Notice, either party may refer the Dispute for resolution by arbitration in accordance with the UNCITRAL Arbitration Rules ("**Arbitration Rules**"). The place of the arbitration will be Singapore. The tribunal will consist of one arbitrator appointed in accordance with the Arbitration Rules. For the purpose of article 6 of the Arbitration Rules, the appointing authority will be the Singapore International Arbitration Centre ("**SIAC**"), on the basis of the SIAC International Panel. The language of the arbitration will be English.

11.3 Interlocutory Relief

Nothing in this Agreement shall prevent GDT from seeking urgent interlocutory relief in a court of competent jurisdiction.

12 PRIVACY, DATA AND INTELLECTUAL PROPERTY

12.1 Privacy

GDT's privacy policy is posted on the Website and governs the protection and use of personal information about Participants and Users in the possession of GDT and its Affiliates. By agreeing to this Agreement and continuing to access and use the Platform and the Services, each Participant acknowledges that it has read and understood the terms of that privacy policy (as amended from time to time) and agrees to it.

12.2 Ownership

Each Participant acknowledges and agrees that all rights, title and interest in all information and/or data that is generated from, or connected with, the Platform or the use of the Website or Services (whether generated by GDT directly or otherwise), is owned by, and is proprietary to, GDT.

12.3 Intellectual Property

Each Participant acknowledges and agrees that GDT (or its licensors, as the case may be) owns all legal rights, title and interests in and to the Platform and the Services, including any intellectual property rights which subsist therein (regardless of whether such rights are registered or not, and wherever in the world those rights may exist). Each Participant agrees that it will not:

- (a) assert or otherwise contest any right, title or interest in or to GDT's intellectual property in the Platform or the Services; or
- (b) adapt, reproduce, copy, store, distribute, print, display, perform, publish or create derivative works from any part of the Platform or the Services.

13 GENERAL

13.1 Notices

All notices under this Agreement must be in writing (which includes email) and are deemed to be delivered if sent (physically or electronically) to the address or email account held by, or specified to, GDT from time to time.

13.2 Assignment

- (a) GDT may novate, assign, transfer, mortgage, charge, pledge or otherwise dispose of (including by way of sub-contract) (each a "**Transfer**") any of its rights, interests, obligations and liabilities in, to or under this Agreement to any person. If and to the extent that GDT transfers any obligations or liabilities in accordance with this clause, it will be released from such obligations or liabilities incurred after the date of such Transfer.
- (b) The Participant may not Transfer any of his or her rights, interests, obligations and liabilities in, to or under this Agreement to any person without GDT's prior written consent.

13.3 No Waiver

No term or condition of this Agreement will be deemed to have been waived in part or in full by GDT and no delay, breach or default will be deemed to have been excused in part or in full by GDT unless the waiver is in writing and signed by an authorised representative of GDT. A waiver of any breach will not be, or be deemed to be, a waiver of any other or subsequent breach.

13.4 Further acts

Each party will make all applications, execute all documents and do all acts and things reasonably required to implement and to carry out its obligations under this Agreement.

13.5 Force Majeure

For the avoidance of doubt, GDT has no liability to any person for any lack of performance, unavailability or failure of the Platform or the Services, or for any failure of GDT to comply with this Agreement where the same arises from any cause reasonably beyond the control of GDT.

13.6 Partial Invalidity

If any provision of this Agreement becomes or is held to be invalid, unenforceable or illegal for any reason, and in any respect, that provision shall be severed from the remaining terms and conditions, which shall continue in full force and effect.

13.7 Governing Law

This Agreement is governed by the laws of New Zealand. Each Participant submits irrevocably to the non-exclusive jurisdiction of the courts of New Zealand.

14 DEFINITIONS

14.1 Definition

In this Agreement, unless the context otherwise requires:

"**Affiliate**" means in relation to any person:

- (a) any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, that person. A person will be deemed to control another person if that person possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of that other person, whether by operation of law, by contract, through the ownership of voting securities or otherwise; and
- (b) any director, officer, employee, representative or agent of that person or any other person described in paragraph (a).

"**Buyer**" means a GDT Marketplace Participant who uses the Platform to buy one or more products.

"**Contract**" has the meaning given to that term in clause 2.1.

"**Insolvency Event**" means that a person:

- (a) is insolvent or bankrupt;
- (b) is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (c) has a value of its assets taken as a whole which is less than its liabilities (taking into account contingent and prospective liabilities);
- (d) has a moratorium declared in respect of any of its indebtedness; or
- (e) goes into receivership, administration, liquidation, statutory management or any similar process in any jurisdiction, or any such step is commenced, in respect of all or any of its property.

"**Participant**" means a person who has been accepted as a GDT Marketplace Participant by GDT, for so long as they remain a party to this Agreement.

"**Platform**" means the trading platform known as "GDT Marketplace" through which listings are published, and includes all infrastructure associated with the operation of such listings.

"**Platform Conduct Principles & Guidelines**" means the guidelines in relation to Participants' conduct on the Platform, as set out in Appendix 1.

"**Seller**" means a GDT Marketplace Participant who uses the Platform to list one or more products for sale.

"**Services**" means the services provided by GDT in connection with the operation of the Platform, including services related to the listing of products and the determination of the outcome of listings.

"**User**" has the meaning given to that term in clause 1.6.

"**Website**" means the website from which the Platform may be accessed by Participants.

14.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) appendices form part of the Agreement;
- (b) the headings appear as a matter of convenience and will not affect the construction of the Agreement;
- (c) the singular includes the plural and vice versa;
- (d) the words "**written**" and "**writing**" include email and facsimile communications and any other means of communication resulting in permanent visible reproduction;
- (e) a reference to "**days**" means calendar days;
- (f) the word "**person**" includes any association of persons whether incorporated or unincorporated, and any state or government or department or agency thereof, whether or not having separate legal personality;
- (g) the word "**includes**" or "**including**" does not limit the meaning of the words preceding it;
- (h) a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, updated or substituted; and
- (i) unless stated otherwise, references to monetary amounts are to United States dollars (USD) currency and references to times are to New Zealand time.

APPENDIX 1: PLATFORM CONDUCT PRINCIPLES & GUIDELINES¹

The Agreement is governed by the laws of New Zealand. However, the laws of a number of countries could potentially apply to your conduct in using the Platform given the Platform provides a venue for cross-border transactions. It is your responsibility to ensure that you comply with all relevant laws in using the Platform - including antitrust/competition laws and unfair business practices laws.

These Platform Conduct Principles & Guidelines ("**Guidelines**") outline the standards of behaviour that are required by the Agreement. These Guidelines are not an exhaustive overview of laws that may potentially apply to you as a Participant, and different countries have different laws. Accordingly, these Guidelines should not be treated as a substitute for obtaining your own legal advice in respect of your participation and conduct on the Platform.

GDT does not monitor the conduct of Participants for compliance with laws, and takes no responsibility for the conduct of Participants in terms of compliance with all, or any, laws. However, if GDT becomes aware of conduct by a Participant that it considers does not comply with the Agreement or these Guidelines it may, in its discretion, terminate or suspend that Participant or take other steps it considers appropriate in the circumstances (clauses 9.2 - 9.6).

If you are ever concerned that you, or another Participant, has engaged in conduct that does not comply with the Agreement or these Guidelines you must immediately notify GDT so that it can consider the issue further (clause 4.11).

Antitrust / competition laws

Antitrust / competition laws prohibit competing buyers, or competing sellers, from cooperating with one another when they should be competing against each other.

Such conduct is known as "cartel conduct". Cartel conduct can include:

- Agreements between competing sellers (either formal or informal) as to the prices they will charge for their products, the formulas they will use to calculate their prices, the timing of discounts, when they will make products available, and which customers they will sell to.
- Agreements between competing buyers (either formal or informal) as to the prices they are willing to pay for products, when they will bid for or purchase products, and which sellers they will deal with.
- Sharing confidential information with competitors about trading intentions, as that removes uncertainties that should exist in a competitive market and can result in competitors' trading conduct being aligned.

There can be significant penalties for engaging in cartel conduct, including fines of millions of dollars for businesses and prison sentences for individuals.

You must be familiar with your antitrust / competition law obligations and ensure that you, and your business, do not engage in any illegal conduct.

Accordingly:

- When you are acting as a Buyer on the Platform, you must not try to coordinate your bidding conduct with other buyers (either on the Platform or elsewhere) or exchange your bidding intentions with other buyers.
- When you are acting as a Seller on the Platform, you must not try to coordinate your selling conduct, or your sales prices, with other sellers (either on the Platform or elsewhere), and you must not exchange your sales information or intentions with other sellers.
- You must only use the Platform's communication system for legitimate communications with other Participants. Legitimate communications would include, for example, contacting a Seller when you are genuinely interested in potentially purchasing product from that Seller to ask:
 - A question about that Seller's listing; and/or

¹ These Guidelines are not intended to convey or constitute legal advice, should not be relied upon as such, and are not a substitute for you obtaining legal advice from a qualified legal counsel / attorney. You should not act upon any information in these Guidelines without first seeking qualified professional legal advice on your specific conduct.

- For that Seller to grant you approval to bid on its listing.
- A Participant that is a seller of dairy products (either on the Platform or elsewhere) can only participate as a Buyer on the Platform for genuine reasons, and must not try to use the Platform to obtain the confidential sales and pricing information of other Sellers. Examples of genuine reasons for a seller of dairy products (either on the Platform or elsewhere) to also participate as a Buyer on the Platform include:
 - Where the seller produces dairy products in Europe, but requires a source of dairy products in Asia and decides that purchasing through the Platform is an efficient way to source products in Asia.
 - Where the seller has a shortage of a particular product or dairy component and decides that purchasing through the Platform is an efficient way to source that product.
- A Participant that sells dairy products on the Platform must only grant approval to a Buyer for the purposes of selling products to that Buyer. In particular, a Participant must not grant approval to another Participant that is also a seller of dairy products (either on the Platform or elsewhere) for the purpose of enabling that other Participant to monitor its sales prices.
- Every Participant must remain vigilant for any potential improper communications or conduct by other Participants and report any concerns regarding any such conduct or communications to GDT.

Unfair business practices, false advertising and misleading conduct laws

Fair trading laws prohibit businesses from:

- making misleading statements in their advertising or product listings on a trading platform;
- making unsubstantiated claims about the products they are selling on a trading platform;
- engaging in any other conduct that is fraudulent, misleading or deceptive, and/or could artificially manipulate trading outcomes on a trading platform.

There can be significant penalties for engaging in unfair trading conduct, including fines of millions of dollars.

You must ensure that all content that you post to the Platform is accurate and will not mislead or deceive other Participants on the Platform. For example:

- The listings that you post must accurately describe the product that you are putting up for sale on the Platform, and must not mislead Buyers about the quality, grade, quantity, country of origin, or potential applications of the product.
- Any claims that you make about your products must be able to be substantiated at the time you make the claim. For example, you should not claim that your product is suitable for a potential application unless you have grounds for making that claim at the time you make it.
- You must not engage in any conduct that could undermine the integrity of any Platform feedback or rating system, such as leaving positive feedback or reviews for yourself, or by leaving unwarranted negative feedback or reviews for another Participant.

You must be familiar with your fair trading law obligations and ensure that you, and your business, do not engage in any illegal conduct.

Shill bidding

A particular form of illegal unfair trading conduct that has occurred on online trading platforms is known as "shill bidding".

Shill bidding is where a seller tries to place false bids on its own listing in an attempt to artificially bid up the price of goods it is selling, or otherwise artificially manipulate the outcome of an online transaction. This has occurred through sellers using the bidding accounts of other people (for example, the accounts of people they know or a related party), or by creating fake accounts, to place false bids.

As with other types of unfair trading conduct, there can be significant penalties for engaging in shill bidding. Regulators and authorities around the world are increasingly active in prosecuting businesses that engage in shill bidding.

For this reason:

- A Participant's account cannot ever be used to bid on its own listing on the Platform.
- You must not engage in any shill bidding behaviour or otherwise try to create a false or misleading appearance of the level of participation, supply or demand in a listing on the Platform.

Bone fide transactions between Affiliates

While shill bidding is prohibited, and a Participant's account cannot be used to bid on its own listing, GDT recognises that in the global dairy industry there are a large number of businesses that have cross-ownership or structural links with other dairy businesses (see the definition of "**Affiliate**" at clause 14.1). Many of those Affiliated businesses are operated independently of each other, and there may be a number of legitimate commercial reasons why a Buyer might want to bid on the listing of an Affiliated business.

For example, a Buyer may legitimately want to source product from an Affiliated Seller, in an environment where the two counter-parties are operated independently from each other, because:

- The Buyer operates in one region, for example Asia, and needs to source product from another region, for example Europe, and wants to have the flexibility to purchase the best priced European product through the Platform (including by considering the prices of an Affiliated business in Europe and other competitors of that Affiliated business); and/or
- A Buyer may want to be able to purchase product from an Affiliate at an objectively referenced price.

Accordingly, Buyers are allowed to bid on an Affiliate's listing provided that:

- They have a bona fide reason for wanting to purchase from an Affiliate through the Platform that can be demonstrated at the time the bid is placed;
- In making decisions as to the level to bid at they are demonstrably acting solely in their own interests as a Buyer, and do not have regard to the interests of the Affiliated Seller, or the corporate group as a whole;
- The Buyer informs GDT every time that it bids on an Affiliate's listing.

A Seller must also inform GDT every time that it sells product to an Affiliated Buyer.

Obligation to report to GDT

If you are ever concerned that you, or another Participant, has engaged in conduct that does not comply with the Agreement or these Principles you should immediately notify GDT so that it can consider the issue further.