



SUBSCRIPTION AGREEMENT

entered into between

RCL FOODS CONSUMER PROPRIETARY LIMITED

(Registration No. 1960/002377/07)

(“RainbowCo”)

and

RCL FOODS LIMITED

(Registration No. 1966/004972/06)

(“RCL Foods”)

TABLE OF CONTENTS

Clause number and description	Page
1. INTERPRETATION AND PRELIMINARY	3
2. SUBSCRIPTIONS	8
3. INITIAL SUBSCRIPTION CONSIDERATION	8
4. SUBSEQUENT SUBSCRIPTION CONSIDERATION	8
5. IMPLEMENTATION.....	9
6. GENERAL WARRANTIES	10
7. RAINBOWCO WARRANTIES	11
8. GOOD FAITH	11
9. JURISDICTION AND GOVERNING LAW.....	11
10. CONFIDENTIALITY.....	11
11. DISPUTE RESOLUTION: NEGOTIATION, MEDIATION THEN ARBITRATION	13
12. BREACH.....	14
13. DOMICILIA CITANDI ET EXECUTANDI.....	14
14. CO-OPERATION.....	15
15. COSTS	16
16. STIPULATIO ALTERI.....	16
17. SEVERABILITY	16
18. WHOLE AGREEMENT, NO AMENDMENT	16
19. NO ASSIGNMENT, CESSION OR DELEGATION OF RIGHTS AND/OR OBLIGATIONS.....	17
20. INDULGENCE AND WAIVER	17
21. EXECUTION IN COUNTERPARTS AND SIGNATURE	17

WHEREBY IT IS AGREED AS FOLLOWS:**1. INTERPRETATION AND PRELIMINARY**

The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention clearly appears -

1.1. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely –

1.1.1. “**AFSA**” means the Arbitration Foundation of Southern Africa or its successor in title;

1.1.2. “**Agreement**” means this subscription agreement, including any annexures hereto;

1.1.3. “**Applicable Laws**” means all statutes, enactments, laws, ordinances, treaties, conventions, protocols, by-laws, rules, regulations, guidelines, notifications, notices, judgments, decrees, injunctions, writs or orders of any court, statutory or regulatory authority, tribunal, board or stock exchange, revenue authority and/or Tax authority in any jurisdiction as may be applicable to the relevant Party;

1.1.4. “**Business Day**” means any day other than a Saturday, Sunday or official public holiday in South Africa;

1.1.5. “**Companies Act**” means the Companies Act No. 71 of 2008;

1.1.6. “**ECTA**” means the Electronic Communications and Transactions Act No. 25 of 2002;

1.1.7. “**Effective Date**” has the meaning ascribed thereto in the Implementation Agreement;

1.1.8. “**Encumbrance**” means:

1.1.8.1. any mortgage, pledge, lien or cession conferring security, hypothecation, security interests, preferential right or trust arrangement or other arrangement securing any obligation of any person;

1.1.8.2. any arrangement under which money or claims to, or for the benefit of, a bank or other account may be applied, set-off or made subject

to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or

- 1.1.8.3. any other type of preferential agreement or arrangement (including any title transfer and retention arrangement), the effect of which is the creation of security;
- 1.1.9. **"Implementation Agreement"** means the written implementation agreement entered, or to be entered, into between RainbowCo, RCL Foods and RCL Treasury Proprietary Limited in respect of the Transactions to be implemented, as amended from time to time;
- 1.1.10. **"Initial Subscription Consideration"** means an amount equal to R1,250,000,000 (one billion two hundred and fifty million Rand);
- 1.1.11. **"Initial Subscription Date"** means the Effective Date;
- 1.1.12. **"Initial Subscription Shares"** means 875 933 (eight hundred seventy five thousand nine hundred and thirty three) ordinary shares of no par value in the issued share capital of RainbowCo;
- 1.1.13. **"Parties"** mean the parties to this Agreement, being RCL Foods and RainbowCo, and **"Party"** shall mean either one of them, as the context may indicate;
- 1.1.14. **"R"** or **"Rand"** means South African rands, being the lawful currency of South Africa;
- 1.1.15. **"RainbowCo"** means RCL Foods Consumer Proprietary Limited (Registration No. 1960/002377/07), a private company duly registered and incorporated in accordance with the laws of South Africa;
- 1.1.16. **"RCL Foods"** means RCL Foods Limited (Registration No. 1966/004972/06), a public company duly registered and incorporated in accordance with the laws of South Africa;
- 1.1.17. **"Signature Date"** means the date of signature of this Agreement by the last of the Parties signing;
- 1.1.18. **"South Africa"** means the Republic of South Africa;
- 1.1.19. **"Subscriptions"** means the issue by RainbowCo of, and the subscription by RCL Foods for, the Subscription Shares on the terms contemplated in this Agreement;

- 1.1.20. **"Subscription Shares"** means collectively or individually, as the context may require, each of the Initial Subscription Shares and the Subsequent Subscription Shares;
- 1.1.21. **"Subsequent Subscription Consideration"** means an amount equal to R1,601,397,619 (one billion six hundred and one million three hundred ninety seven thousand six hundred and nineteen Rand);
- 1.1.22. **"Subsequent Subscription Date"** means the Effective Date and immediately following implementation of step 3 in the Implementation Agreement;
- 1.1.23. **"Subsequent Subscription Shares"** means 1 122 174 (one million one hundred and twenty two thousand one hundred and seventy four) ordinary shares of no par value in the issued share capital of RainbowCo;
- 1.1.24. **"Tax"** means collectively (i) any charge, tax, duty, levy, impost and withholding having the character of taxation, wherever chargeable, imposed for support of national, state, federal, municipal or local government or any other governmental or regulatory authority, body or instrumentality in jurisdiction or elsewhere (including, without limitation, income tax, sales tax, service tax, excise tax, withholding tax, real property gains tax, development tax, customs duties and taxes on receipts, sales, use, occupation, franchise, transfer, value added and social security taxes); and (ii) any penalty, fine, surcharge, interest, charges or additions to taxation payable in relation to any taxation contemplated in (i); and
- 1.1.25. **"Transactions"** means the series of transactions contemplated in the Implementation Agreement.
- 1.2. Unless inconsistent with the context in which it is used in this Agreement, a word or an expression which denotes:
- 1.2.1. one gender include the other of masculine, feminine and neuter;
- 1.2.2. the singular include the plural and *vice versa*; and
- 1.2.3. natural persons include created entities (corporate or unincorporate) and the state and *vice versa*.
- 1.3. Any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment. Any reference to a particular section in an enactment is to that section as at the Signature Date, and as amended or re-enacted from time to time and/or an equivalent measure in an enactment, provided that if as a result of such amendment or re-

enactment, the specific requirements of a section referred to in this Agreement are changed, the relevant provision in the abovementioned definitions of this Agreement shall be read also as if it had been amended as necessary, without the necessity for an actual amendment.

- 1.4. If any provision in the abovementioned definitions is a substantive provision conferring rights or imposing obligations on any Party then notwithstanding that such provision is only contained in this clause 1, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 1.5. Where figures are in this Agreement described both in numerals and in words, the words shall prevail in the event of any conflict between the two.
- 1.6. If:
 - 1.6.1. any term is defined in any particular clause in the main body of this Agreement, the term so defined, unless it is clear from the clause in question that the defined term has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
 - 1.6.2. any term is defined in any annexure to this Agreement, the term so defined, unless it expressly provides in that annexure that the defined term in question shall bear the meaning ascribed to it for all purposes in the annexure and in the main body of this Agreement, will have limited application to that annexure only;
 - 1.6.3. any annexure to this Agreement contains any rules of interpretation which conflict with the rules of interpretation contained in the main body of this Agreement, the former shall prevail for purposes of the annexure.
- 1.7. When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day that is not a Business Day, in which case the last day shall be the next succeeding Business Day.
- 1.8. Any reference to a day, month or year shall be construed as a Gregorian calendar day, month or year.
- 1.9. Any reference to person or entity in this Agreement includes any natural or juristic person, association, business, close corporation, company, concern, enterprise, firm, partnership, joint venture, trust, undertaking, voluntary association, body corporate, and any similar entity, in any jurisdiction, and is to be given its widest interpretation possible.
- 1.10. Expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own conflicting definitions.

- 1.11. The discharge or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after such discharge or termination or which of necessity must continue to have effect after such discharge or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.12. Any reference in this Agreement to a party shall include a reference to that party's assigns expressly permitted under this Agreement and, if such party is liquidated, or is sequestrated or business rescue proceedings have commenced in respect of such party, be applicable also to and binding upon that party's liquidator, trustee or business rescue practitioner, as the case may be.
- 1.13. The rule of construction that, in the event of ambiguity, the contract will be interpreted against the party responsible for the drafting thereof shall not apply in the interpretation of this Agreement.
- 1.14. Any reference in this Agreement to any other agreement or document shall be construed as a reference to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated or supplemented.
- 1.15. The words following "other", "otherwise", "including", "in particular", or any other similar general term or expression shall not:
- 1.15.1. be construed as being of the same kind, class or nature with any preceding words; or
- 1.15.2. limit the generality of any preceding word/s,
- if a wider construction is possible.
- 1.16. Save as may expressly otherwise be provided, any reference in this Agreement to "in writing", "written" or the like shall include any form of written recordal, including e-mails, letters, memoranda, notes and formal agreements.
- 1.17. Where this Agreement requires a Party to use "**Reasonable Endeavours**" in relation to an action or omission, that Party shall do all such things as are or may be necessary so as to achieve that action or omission and, to the extent that the action or omission is frustrated, hindered or otherwise difficult to attain, the affected Parties shall consult and co-operate with each other and continue to take action (including any action agreed between those Parties pursuant to such consultation) so as to achieve that action or omission until each of those Parties agree that it is not reasonable to take the action or is reasonable to omit taking the action, provided that any actions or omissions required to be undertaken:
- 1.17.1. shall at all times be commercially reasonable as regards all Parties;

1.17.2. shall not be such as to result in a breach of fiduciary duty or contravention of any South African laws, ordinances, writs, orders, regulations, judgments and orders of any competent South African court or central bank or governmental agency or authority in South Africa; and

1.17.3. shall not be construed as requiring a Party to take any step other than one which a prudent and reasonable businessperson, acting in his own interests and desiring to achieve that result, would in that circumstance undertake.

2. **SUBSCRIPTIONS**

2.1. On the Initial Subscription Date, RCL Foods shall subscribe for, and RainbowCo shall issue and allot to RCL Foods the Initial Subscription Shares at the Initial Subscription Consideration.

2.2. On the Subsequent Subscription Date, RCL Foods shall subscribe for, and RainbowCo shall issue and allot to RCL Foods the Subsequent Subscription Shares at the Subsequent Subscription Consideration.

2.3. The Initial Subscription Shares and the Subsequent Subscription Shares are allotted and issued with effect from the Initial Subscription Date and Subsequent Subscription Date, respectively, from which dates all risk and benefit attaching thereto shall pass to RCL Foods.

3. **INITIAL SUBSCRIPTION CONSIDERATION**

3.1. The Initial Subscription Consideration shall be payable by RCL Foods on the Initial Subscription Date against issue and allotment of the Initial Subscription Shares to RainbowCo in accordance with the provisions of clause 5 below.

3.2. The Initial Subscription Consideration shall be payable by RCL Foods to RainbowCo in accordance with clause 7 of the Implementation Agreement.

4. **SUBSEQUENT SUBSCRIPTION CONSIDERATION**

4.1. It is recorded that as at the Subsequent Subscription Date, the following intra-group loans are owing by RainbowCo to RCL Foods:

4.1.1. interest-free loan funding amounting to approximately R1 451 397 619 (one billion four hundred fifty one million three hundred ninety seven thousand six hundred and nineteen Rand); and

4.1.2. a capital amount of R150 000 000 (one hundred and fifty million Rand) advanced to RCL Treasury as an interest-bearing loan,

as more fully detailed in the Implementation Agreement (collectively, the "**Loan Claims**").

- 4.2. The Subsequent Subscription Consideration shall be payable by RCL Foods on the Subsequent Subscription Date against issue and allotment of the Subsequent Subscription Shares to RainbowCo in accordance with the provisions of clause 5 below.
- 4.3. In discharge of the Subsequent Subscription Consideration and on and with effect from the Subsequent Subscription Date, the payment obligations under the Subsequent Subscription Consideration shall be set-off against the payment obligations under the Loan Claims, without further action being required by either Party.
- 4.4. The Parties acknowledge that the discharge of the Subsequent Subscription Consideration in accordance with the provisions of clause 4.3 shall constitute a full and valid discharge by:
 - 4.4.1. RCL Foods to RainbowCo of its payment obligations in respect of the Subsequent Subscription Consideration; and
 - 4.4.2. RainbowCo of its payment obligations in respect of the Loan Claims.

5. **IMPLEMENTATION**

- 5.1. On the Initial Subscription Date RainbowCo shall deliver to RCL Foods:
 - 5.1.1. the original share certificate(s) in respect of the Initial Subscription Shares;
 - 5.1.2. a copy of the resolutions of the board of directors of RainbowCo Foods, approving the issue by RainbowCo Foods of the Initial Subscription Shares;
 - 5.1.3. a copy of the resolutions of the shareholder of RainbowCo Foods as may be required in terms of section 41 of the Companies Act, approving RainbowCo issuing the Initial Subscription Shares to RCL Foods;
 - 5.1.4. all such other documents as are necessary in order to enable RCL Foods to procure the registration of the Initial Subscription Shares into its name; and
 - 5.1.5. an updated securities register in terms of which RCL Foods is reflected as the holder of the Initial Subscription Shares.
- 5.2. On the Subsequent Subscription Date RainbowCo shall deliver to RCL Foods:
 - 5.2.1. the original share certificate(s) in respect of the Subsequent Subscription Shares;
 - 5.2.2. a copy of the resolutions of the board of directors of RainbowCo Foods, approving the issue by RainbowCo Foods of the Subsequent Subscription Shares;

- 5.2.3. a copy of the resolutions of the shareholder of RainbowCo Foods as may be required in terms of section 41 of the Companies Act, approving RainbowCo issuing the Subsequent Subscription Shares to RCL Foods;
- 5.2.4. all such other documents as are necessary in order to enable RCL Foods to procure the registration of the Subsequent Subscription Shares into its name; and
- 5.2.5. an updated securities register in terms of which RCL Foods is reflected as the holder of the Subsequent Subscription Shares.

6. GENERAL WARRANTIES

Each Party warrants to one another that, as at the Signature Date and Subsequent Subscription Date:

- 6.1. it is and shall remain validly incorporated in accordance with all Applicable Laws;
- 6.2. they have the necessary power and legal capacity to enter into and perform their obligations under this Agreement and all matters contemplated herein, to sue and be sued in their own name, to carry on the business which they conduct and to own their assets;
- 6.3. save as is expressly contemplated herein, they have taken all necessary corporate and/or internal action to authorise the execution and performance of this Agreement;
- 6.4. the provisions of this Agreement are and shall remain legally binding on it and the obligations imposed on it, pursuant to this Agreement, constitute its legal, valid and binding obligations, enforceable in accordance with their terms;
- 6.5. the execution of this Agreement and the performance of their obligations hereunder does not and shall not:
 - 6.5.1. contravene any law or regulation to which it is subject; or
 - 6.5.2. contravene any provision of its constitutional documents; or
 - 6.5.3. conflict with, or result in a breach of any of the terms of, or constitute a default under any agreement or other instrument to which it is a party, or any licence or other authorisation to which it is subject, or by which it or any of its property or revenues are bound,

so as to prevent them from performing their obligations under this Agreement; and

- 6.6. it is not aware of the existence of any fact or circumstance which might impair its ability to comply with all of its obligations in terms of this Agreement.

7. RAINBOWCO WARRANTIES

RainbowCo warrants to and in favour of RCL Foods that:

- 7.1. RCL Foods will acquire full legal and beneficial ownership of the Initial Subscription Shares and Subsequent Subscription Shares on the Initial Subscription Date and Subsequent Subscription Date, respectively, against issue and allotment thereof;
- 7.2. as at the Initial Subscription Date and Subsequent Subscription Date, respectively, the Subscription Shares shall be free and clear of all Encumbrances;
- 7.3. as at the Initial Subscription Date and Subsequent Subscription Date, respectively, RainbowCo will have the power and authority to give RCL Foods good and valid title to the Subscription Shares, by virtue of the issue and allotment thereof to RCL Foods; and
- 7.4. the Subscription Shares will rank *pari passu* with all the other issued ordinary shares of RainbowCo.

8. GOOD FAITH

The Parties shall at all times act in good faith towards each other and shall not bring the other Party into disrepute.

9. JURISDICTION AND GOVERNING LAW

- 9.1. Subject to the provisions of clause 9.2 below, this Agreement and any matter arising from it shall be subject to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Division, Gauteng.
- 9.2. For the purposes of clause 9.1 above, the Parties herewith submit to the jurisdiction of the Court referred to in clause 9.1 above and appoint as their *domicilia* for those purposes their respective addresses as set out in clause 12.1 below.
- 9.3. This Agreement shall be subject to and shall be governed by the laws of South Africa.

10. CONFIDENTIALITY

- 10.1. Any information obtained by any Party in connection with this Agreement or the Subscriptions contemplated hereby, shall be treated as confidential by the Parties and shall not be used, divulged or permitted to be divulged to any person not being a Party to this Agreement, without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed) save that:

- 10.1.1. each Party shall be entitled to disclose such information to its professional advisors and funders who have a need to know and who have been directed by the disclosing Party to keep such information confidential and have undertaken to keep such information confidential;
 - 10.1.2. each Party shall be entitled to disclose any information (including this Agreement) which is required to be furnished by it (or any member of its group) by Applicable Laws or regulation or by any recognised stock exchange or any Tax authority;
 - 10.1.3. no Party shall be precluded from using or divulging such information in order to pursue any legal remedy available to it;
 - 10.1.4. each Party shall be entitled to disclose such information if such information is, or becomes, generally available to the public other than by the negligence or default of such Party or by the breach of this Agreement by such Party;
 - 10.1.5. each Party shall be entitled to disclose such information if the Party, which originally disclosed same to the first mentioned Party, confirms in writing that same was so originally disclosed on a non-confidential basis;
 - 10.1.6. each Party shall be entitled to disclose such information if such information has lawfully become known by or come into the possession of such Party on a non-confidential basis from a source other than the Party having the legal right to disclose same; or
 - 10.1.7. this Agreement itself may be disclosed by a Party to any third party that is in bona fide, good faith negotiating with such Party to enter into a transaction or any other written contractual relationship with such Party.
- 10.2. In the event that a Party is required to disclose information as contemplated in clause 10.1.2, such Party will:
- 10.2.1. advise the Party in respect of whom such information relates (the “**Relevant Party**”) in writing prior to disclosure, if possible;
 - 10.2.2. take such steps to limit the disclosure to the minimum extent required to satisfy such requirement and to the extent that it lawfully and reasonably can;
 - 10.2.3. afford the Relevant Party a reasonable opportunity, if possible, to intervene in the proceedings;
 - 10.2.4. comply with the Relevant Party’s reasonable requests as to the manner and terms of such disclosure; and

- 10.2.5. notify the Relevant Party of the recipient of, and the form and extent of, any such disclosure or announcement immediately after it was made.

11. DISPUTE RESOLUTION: NEGOTIATION, MEDIATION THEN ARBITRATION

- 11.1. In the absence of any specific provision to the contrary, should any dispute, disagreement or claim of any nature arise between the Parties (the “**Dispute**”) concerning the interpretation, execution or implementation of this Agreement, or otherwise the Parties shall endeavour to resolve the Dispute by negotiation.
- 11.2. This entails one of the Parties inviting the other Party in writing to meet and to attempt to resolve the Dispute within 7 (seven) days from date of the said written invitation.
- 11.3. If the Dispute has not been resolved by such negotiation within 7 (seven) days of the commencement thereof by agreement between the Parties, then the Parties shall:
- 11.3.1. submit the Dispute to mediation to be administered by AFSA, in accordance with the rules of AFSA in relation to mediation; and
- 11.3.2. failing agreement as aforesaid within 7 (seven) days of the Dispute being submitted to mediation, the Parties shall refer the Dispute for final resolution to arbitration in accordance with the rules of AFSA as provided for in clause 11.4.
- 11.4. The arbitrator shall be, if the matter in dispute is principally:
- 11.4.1. a legal matter, a practising advocate or attorney of South Africa of at least 15 (fifteen) years’ standing;
- 11.4.2. an accounting matter, a practising chartered accountant of South Africa of at least 15 (fifteen) years’ standing;
- 11.4.3. any other matter, any independent and suitably qualified person,
- agreed upon between the Parties to the Dispute. If the Parties are not able to agree upon the arbitrator within 7 (seven) days of the Dispute being submitted to arbitration, the arbitrator shall be appointed by AFSA.
- 11.5. The decision of the arbitrator shall be final and binding on the Parties and may be made an order of court at the instance of any of the Parties to the Dispute.
- 11.6. Unless otherwise agreed in writing by the Parties, any such negotiation, mediation or arbitration shall be held in Johannesburg, South Africa.

- 11.7. Notwithstanding anything to the contrary in this clause 10, any Party shall be entitled to apply for, and if successful, be granted, an interdict or other interim and/or urgent relief from any competent court having jurisdiction.

12. BREACH

- 12.1. If any Party ("**Defaulting Party**") commits a breach of this Agreement, and/or fails to comply with any of the provisions hereof, and:

12.1.1. if such breach is capable of remedy, and the Defaulting Party fails to remedy such breach and/or failure within 10 (ten) Business Days of receipt of a notice from the other Party ("**Aggrieved Party**") requiring such remedial action; or

12.1.2. if such breach constitutes a material breach and is incapable of remedy,

then the Aggrieved Party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the Aggrieved Party may have in law:

12.1.3. to cancel this Agreement and/or claim damages; or

12.1.4. to claim immediate performance and/or payment of all the Defaulting Party's obligations in terms hereof and/or claim damages.

- 12.2. Notwithstanding anything to the contrary contained in this Agreement, after the implementation of this Agreement, no Party will have the right to cancel this Agreement as a result of a breach thereof save in the case of a breach of a warranty contemplated in clauses 6 and 7 and/or fraudulent misrepresentation, and the Aggrieved Party's only remedies thereafter will be to claim specific performance of all the Defaulting Party's obligations, together with damages, if any.

13. DOMICILIA CITANDI ET EXECUTANDI

- 13.1. The Parties choose as their address for service and execution (*domicilia citandi et executandi*) for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses:

13.1.1. RCL FOODS

Physical Address: 10 the Boulevard, Westway Office Park,
Westville

Email: LegalNotices@RCLFOODS.com

Marked for the attention of: Legal Director

13.1.2. RAINBOWCO

Physical Address: 10 the Boulevard, Westway Office Park,
Westville

Email: LegalNotices@RCLFOODS.com

Marked for the attention of: Financial Director

13.2. Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing, which, for the avoidance of doubt, includes e-mail.

13.3. Any Party may by notice to the other Party change the physical address chosen as its *domicilium citandi et executandi vis-à-vis* that Party to another physical address or its e-mail, provided that the change shall become effective *vis-à-vis* that addressee on the 10th (tenth) Business Day from the receipt of the notice by the addressee.

13.4. Any notice to a Party:

13.4.1. sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered shall be deemed to have been received on the 7th (seventh) Business Day after posting (unless the contrary is proved);

13.4.2. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

13.4.3. sent by email to its chosen email address stipulated in clause 13.1 shall be deemed to have been received on the date of despatch (unless the contrary is proved).

13.5. Notwithstanding anything to the contrary contained herein, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

14. CO-OPERATION

Each Party hereby undertakes to use its respective Reasonable Endeavours to:

14.1. do all things, and sign all documents as may be necessary, to give effect to the provisions of this Agreement;

14.2. do and to procure the doing by other persons, and to refrain and procure that other persons will refrain from doing, all such acts; and

14.3. pass and to procure the passing of all such resolutions of directors or shareholders of any company,

to the extent that the same may lie within such Party's power and may be required to give effect to the import or intent of this Agreement, or any contract concluded pursuant to the provisions of this Agreement.

15. **COSTS**

Each Party shall bear its own costs of and incidental to the negotiation, preparation and execution of this Agreement.

16. **STIPULATIO ALTERI**

No part of this Agreement shall constitute a *stipulatio alteri* in favour of any person who is not a Party unless the provision in question expressly provides that it does constitute a *stipulatio alteri*.

17. **SEVERABILITY**

Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity or unenforceability and shall be treated as if it had never been written (*pro non scripto*) and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the legality, validity or enforceability of such provision in any other jurisdiction.

18. **WHOLE AGREEMENT, NO AMENDMENT**

18.1. This Agreement constitutes the whole agreement between the Parties relating to the subject matter hereof and supersedes any other discussions, agreements and/or understandings regarding the subject matter hereof.

18.2. No amendment or consensual cancellation of this Agreement or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a document signed by the Parties (or in the case of an extension of time, waiver, relaxation or suspension, a document signed by the Party granting such extension, waiver, relaxation or suspension). Any such extension, waiver, relaxation or suspension which is so given or made shall be strictly construed as relating only to the matter in respect of which it was made or given. For the purposes of this clause 18.2,

notwithstanding the Electronic Communications and Transactions Act, 2002, "signed" shall mean a signature executed by hand on paper containing the document or an advanced electronic signature as defined in the Electronic Communications and Transactions Act, 2002, applied to the document by the signatory.

18.3. No oral *pactum de non petendo* shall be of any force or effect.

18.4. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate neither as an estoppel against any Party in respect of its rights under this Agreement, nor so as to preclude such Party (save as to any extension, waiver or relaxation actually given) thereafter from exercising its rights strictly in accordance with this Agreement.

18.5. To the extent permissible by law no Party shall be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced a Party to enter into the Agreement and/or whether it was negligent or not.

19. **NO ASSIGNMENT, CESSION OR DELEGATION OF RIGHTS AND/OR OBLIGATIONS**

Except as expressly provided to the contrary in this Agreement, no Party shall be entitled to cede, assign, transfer or delegate all or any of its rights, obligations and/or interest in, under or in terms of this Agreement to any third party without the prior written consent of the other Party (which consent shall not be unreasonably withheld).

20. **INDULGENCE AND WAIVER**

No indulgence which a Party (the "Grantor") may grant to the other Party (the "Grantee") shall constitute a waiver of any of the rights of the Grantor, who shall not thereby be precluded from exercising any rights against the Grantee which might have arisen in the past or which might arise in the future, save should such waiver be reduced to writing and signed by the Grantor.

21. **EXECUTION IN COUNTERPARTS AND SIGNATURE**

21.1. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party that signs its counterpart last in time.

21.2. Delivery of an executed counterpart signature page of this Agreement by way of e-mail (PDF) shall be effective delivery of a manually executed counterpart of this Agreement. For the avoidance of doubt, a counterpart of this Agreement signed by electronic signature in any manner provided in ECTA, by e-mail signature, by scanned PDF copy of a signatory's wet signature and/or by signing using a PDF or other signature tool, shall be an effective and valid

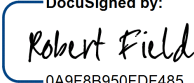
mode of execution and delivery of such counterpart of this Agreement (or a counterpart signature page), in the absence of evidence to the contrary.

- 21.3. Having each page of this Agreement initialled by a Party or having a Party's signature verified by a witness is not a requirement for this Agreement to be valid and enforceable.
- 21.4. The persons signing this Agreement in a representative capacity warrant their authority to do so.

[signature page to follow]

[Signature page of the Subscription Agreement entered into between RCL Foods and RainbowCo]

For: **RCL FOODS LIMITED**

Signature: 
0A9E8B950E0E485
_____ who warrants that he / she is duly authorised thereto


Name: Robert Hilton Field

Date: 22 February 2024 | 21:05 PST

Place: westville

[Signature page of the Subscription Agreement entered into between RCL Foods and RainbowCo]

For: **RCL FOODS CONSUMER PROPRIETARY LIMITED**

Signature: 
BF2BB006667743E...
who warrants that he / she is duly authorised thereto

Name: Izak Gerhardus van der Walt

Date: 23 February 2024 | 08:04 SAST

Place: Cape Town