

## Terms and Conditions

These terms and conditions (**Terms**) set out the basis on which New Zealand Green Farm Limited and its affiliates and subsidiaries, and Green Farm Group Limited and its affiliates and subsidiaries (**we or us**) agree to supply goods (the **Goods**) and services (the **Services**). Your particular agreement, in respect of any particular order, is with the company named in the sale confirmation or invoice issued to you for the particular Goods and/or Services supplied to you (**Particular Supply Company**), but these terms are intended to be for the benefit of each of New Zealand Green Farm Limited and Green Farm Group Limited and its subsidiaries, and are enforceable by each of those companies where applicable to those companies. The Particular Supply Company agrees to supply Goods and Services to you, the customer, in return for payment of the price for those Goods and Services subject to these Terms. Acceptance of delivery or receipt of any Goods or Services will (notwithstanding any statement to the contrary by you or your employees or agents) constitute acceptance of these Terms. If there is more than one of you, your liability is joint and several.

### 1 Price and Payment

- 1.1 All prices exclude GST, any other applicable taxes and duties and insurance/freight/delivery/handling charges if not expressly included in the price. You agree to pay these items (as applicable) in addition to the price, whether they are imposed before or after your order.
- 1.2 Payment must be made in clear funds prior to delivery of your order unless we agree otherwise in writing.
- 1.3 We can impose a credit limit on you (or refuse to allow you any credit) at any time, and alter it at our sole discretion, and may at any stage during the continuance of this Agreement request such security or additional security as we in our sole discretion think fit and may withhold supply of Goods or Services or credit arrangements until such security or additional security has been obtained.
- 1.4 You must not withhold payment or make any deductions of any nature whether by way of set off (legal, equitable or otherwise), counterclaim or otherwise from any amount you owe us. Any default in payment will make all money payable by you to us immediately due and we may withhold delivery of Goods and/or provision of Services until you provide payment of all money payable by you to us. Default in payment also entitles us to cancel any order we have accepted from you. You will not be entitled to any refund of payment for any such cancelled order.

### 2 Delivery and Risk

- 2.1 Unless we agree otherwise in writing, risk in Goods sold to you will pass to you on Delivery being the time the Goods are dispatched from our premises to you, whether the Goods are delivered to your address by us or uplifted from us by you or by a carrier arranged by you or us.
- 2.2 If any of the Goods are damaged or destroyed prior to property in them passing to you, we are entitled, without prejudice to our other rights or remedies (including the right to receive payment of the balance of the Price for the Goods), to receive all insurance proceeds payable in respect of the Goods whether or not the price has become payable under these Terms. The production of these Terms by us is sufficient evidence of our rights to receive the insurance proceeds without the need for any person dealing with us to make further enquiries.
- 2.3 Any date or time stated for dispatch is an estimate only and not a condition of sale.

### 3 Security Interest

- 3.1 Ownership of all Goods supplied to you by us will not pass on Delivery, but will remain with us until we have received full payment in clear funds of all moneys you owe us (whether relating to those or other Goods, the supply of Services, or any other matter). We hold a Security Interest in all Goods supplied to you and the proceeds of any resale of the Goods for payment of those moneys.
- 3.2 Until all moneys due to us are paid, you agree to act as a fiduciary of us and to:
  - (a) Not sell, charge or part with possession of the Goods, otherwise than for their full value in the ordinary course of business;
  - (b) Not alter, obliterate, or deface the Goods, nor alter, obliterate, deface, cover up, or remove any identity mark indicating that the Goods are our property.
  - (c) Store the Goods in such manner that they are clearly identifiable as our property and keep separate records of the Goods;
  - (d) Hold the proceeds of the resale of the Goods in trust for us, in a separate and identifiable manner.
- 3.3 At our request, you will promptly deliver, execute or do (or cause to be executed, delivered or done) any documents, contracts, agreements, deeds or other action that we may require from time to time to give effect to these Terms, including without limitation doing all such things as we may require to ensure that the Security Interest created under these Terms is a perfected Security Interest over the Goods.
- 3.4 Where you are in default, you agree to our entering your premises or any other place where the Goods are located, or where we reasonably believes that the Goods are located, and taking possession of and selling the Goods.
- 3.5 We may issue proceedings to recover payment for the Goods even though ownership of the Goods may not have passed to you.

### 4 Intellectual Property

- 4.1 If we provide or develop any copyright works or other intellectual property to or for you (**IP**), we own the IP and any intellectual property rights in the IP. Upon payment of any applicable license fees for the IP we will grant you a non-exclusive, non-transferable licence to use the IP with the Goods or Services supplied.
- 4.2 Where we supply you with third party IP, you agree to use such third party IP strictly on the terms of the licence under which it is supplied.

### 5 Exclusion of Warranties

- 5.1 If you are in trade and are acquiring the Goods or Services for business purposes, the guarantees under the Consumer Guarantees Act 1993 and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 do not apply.
- 5.2 Unless you have rights under the Consumer Guarantees Act 1993 or other legislation, which cannot be excluded or limited, there are no warranties express or

implied. This disclaimer includes implied warranties as to merchantability and fitness for a particular purpose.

### 6 Limitation of Liability

- 6.1 We are not liable to you for any loss or damage arising from delay or failure to perform our obligations due to any matter beyond our reasonable control nor any loss or damage caused or contributed to by you.
- 6.2 You agree that none of New Zealand Green Farm Limited (and its affiliates and subsidiaries), Green Farm Group Limited (and its affiliates and subsidiaries), nor their directors, employees and agents are liable to you for any claim for breach of Contract (except in the case of the Particular Supply Company itself as provided in clause 6.3 below) or Statute or breach of duty in Tort (including negligence) or for any claim in Equity or otherwise at law.
- 6.3 Your sole remedy will be against the Particular Supply Company, and will be limited to claims for breach of contract and the extent of any such liability will be limited, at our option, to replacement of the Goods, payment of the cost of replacing the Goods or acquiring equivalent Goods or refund of the price you paid for the particular defective Goods. If the breach relates to Services the extent of any such liability will be limited, at our option, to supplying the Services again, payment of the cost of having the services supplied again, or refund of the price you paid for the particular defective Services.
- 6.4 We will not, in any case, be liable for any other losses or damages whether general, exemplary, punitive, direct, indirect or consequential, including loss of business profits.
- 6.5 No action may be brought against us unless notice of such claim is given to us within one week of delivery of the Goods or provision of the Services. We will be released from all or any liability unless proceedings are brought in a Court of competent jurisdiction within Three months of the date of delivery of the Goods or provision of the Services.

### 7 Default

- 7.1 If you do not pay any money owed to us (the **unpaid money**) by the due date, we may charge penalty interest at a rate of 2% per calendar month calculated daily and capitalised monthly on the unpaid money from the due date until payment in full is made (including after as well as before any Court judgment).
- 7.2 You indemnify us for and agree to pay, on demand, all costs incurred by us (including legal costs on a solicitor-client basis and debt collection costs) in the recovery or attempted recovery of unpaid money and/or the enforcement of these Terms or the Security Interest contained in these Terms.

### 8 Use of information

- 8.1 You agree that we may collect the information for the purpose of assessing your application for credit, including checking your present and continued credit worthiness, if necessary, collecting any outstanding debt from you and direct marketing activities (the **purposes set out above**). You consent to us disclosing the information, as well as any default in payment by you, to any credit or debt collection agency, and to any person/agency we appoint to collect any outstanding debt from you, if necessary, for the purposes set out above.
- 8.2 If information is provided to any credit or debt collection agency, they will hold that information on their systems and use it to provide their credit reporting service, including updating its credit reporting database and providing that information to other customers they have and you consent to that use and disclosure.
- 8.3 We may request, and any person or organization (including any credit or debt collection agencies) may provide, information about you to us, both now and in the future, for the purposes set out above and you consent to us seeking that information in the course of our business and disclosure of that information to us.
- 8.4 If you are an individual, you have the right under the Privacy Act 2020 to see and correct any personal information held by us or any agency about you.
- 8.5 You must notify us of any change in circumstances that may affect the accuracy of the information you provided to us. Your failure to provide the personal information sought, may result in our refusing to supply Goods or Services to you.

### 9 General Provisions

- 9.1 These Terms apply to all transactions we have with you. If there is any inconsistency between these Terms and any order submitted by you or any other arrangement with us, these Terms prevail unless otherwise agreed by us in writing.
- 9.2 If any provision of these Terms is held by any court to be illegal, void or unenforceable, that will not impair the enforceability of the remaining provisions.
- 9.3 These Terms are governed by, and must be construed in accordance with, the laws of New Zealand. Both parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
- 9.4 We may review and change these Terms at any time and from time to time. Any such change will take effect from the date on which we notify you of the change. You consent to such future changes being made by updates on our website, and agree that such update will constitute agreement by you to the amended terms.