

# Oxford Agricultural Services Limited - Terms and Conditions (Terms)

Oxford Agricultural Services Limited (we or us) agrees to supply certain services as agreed and documented between the parties (the Services) to you, the Customer, in return for payment of the price for those Services subject to these Terms. Acceptance of the provision of any 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, duties and charges 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 the time of booking the service(s).
- 1.2 Payment must be made in full and in clear funds and is due on the 20<sup>th</sup> of the month following the date of our invoice unless we agree otherwise with you in writing in advance. If any part of an invoice is disputed, the amount not in dispute must be paid as per the payment terms in this clause. Thereafter, the parties agree to use their best endeavours to promptly resolve the dispute between them in good faith.
- 1.3 If we provide a quote, such quote is given without commitment and no contract between you and us will arise.
- 1.4 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 suspend, withhold supply of the Services or credit arrangements until such security or additional security shall be obtained. You must advise us of any changes to your contact details.
- 1.5 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 shall make all money payable by you to us immediately due and we may withhold provision of Services until you provide payment of all money payable by you to us.
- 1.6 If at any time, you are in breach of your obligations to us (including any payment obligation), then without prejudice to any other remedies we may have, we may suspend the supply of Services until the breach is remedied and the date for completion of the Services will be delayed for the same time the Services are suspended.
- 1.7 If we consider that any particular project is prematurely at an end, including without limitation because you have failed to provide sufficient information to allow the Services to be undertaken properly, we may terminate our engagement and invoice you for all outstanding work completed by us up to the date of termination.
- 1.8 On request by us at any time, and in consideration of our provision of Services to you, you will arrange for a personal guarantee by deed to be provided in respect of your obligations to us by a person or entity satisfactory to us in our sole discretion, on such terms as we consider appropriate.

## 2 Information

- 2.1 You will provide us with any information we reasonably request to enable the delivery of the Services, including but not limited to; information about the service site, livestock, crops, infestations, microbial/pest load, climatic/environmental conditions, the nature of permits, licenses or consents required for the Services to be provided (if any), and any prior issues or events that may impact the delivery of Services.
- 2.2 You warrant that all information provided to us (including in accordance with clause 2.1) is complete, true and accurate in all respects and contains no material errors or omissions and that we may rely on such information.
- 2.3 If we believe you have not provided sufficient information to allow the Services to be undertaken properly, we will advise you of the information required. We may postpone the Services until you have provided the information.

## 3 Supply of Services

- 3.1 We will make all reasonable efforts to have the Services supplied to you on the date agreed, but we do not guarantee a completion date.
- 3.2 You assume sole responsibility for results obtained from the use of the Services. We will have no liability for any damage caused by errors or omissions in any information or instruction provided to us by you in connection with the Services or any action taken by us at your direction.

## 4 Exclusion of Warranties

- 4.1 If you are in trade and are acquiring the 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.
- 4.2 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.

## 5 Access to Property

- 5.1 You agree to arrange safe and unobstructed access to property and equipment as is reasonably necessary or desirable for us to supply the Services.
- 5.2 You warrant that you are fully entitled to provide the access contemplated by this clause 5.
- 5.3 Where access to property is obstructed or deemed unsafe by us, we may suspend the Supply of Services. Services will be deferred to another date by mutual agreement.

## 6 Health and Safety

- 6.1 We both agree to comply, and ensure all individuals, employees or subcontractors involved in the supply or receipt of Services will comply with all relevant health and safety legislation including the Health and Safety at Work Act 2015 ("HSAWA").
- 6.2 Either party will advise the other as soon as practically possible of:
  - a) any hazards or risks that are identified or created, and all accidents, incidents and near misses, relating to the Services; and
  - b) all notifiable events (as defined in the HSAWA) relating to the provision of Services.
- 6.3 We will both take all practical steps to ensure that a safe working environment is maintained for the duration of the supply of the Services.
- 6.4 When deemed necessary by us, you agree to work with us to create an onsite work plan, where we develop an onsite work plan detailing the agreed safety processes and procedures that we are both required to follow.

## 7 Limitation of Liability

- 7.1 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, including where key information under clause 2 was withheld, or where such liability stems from a failure to comply with our guidance or instructions following the provision of Services.
- 7.2 A 'matter beyond our reasonable control' means any cause or event reasonably beyond our control including without limitation, any act of God, fire, flood, wind, explosion, power failure, war, embargo, act of government, epidemics, pandemics, any government regulations decree or instruction regarding lockdown or restrictions on freedom of movement, or refusal of, revocation of, or delay in obtaining any necessary consents or approvals of any government or regulatory authority, or any failure or breakdown of infrastructure, failure or breakdown of equipment or, any of the foregoing events in respect of a party within our supply chain.
- 7.3 We are not liable to you for any loss or damage arising from the quality of any goods (including feed, grains or seeds) delivered to you as part of the provision of our Services to you.
- 7.4 We and our employees and agents shall not be liable to you for any claim for breach of Contract (except as provided in clause 7.5 below) or Statute or breach of duty in Tort (including negligence) or for any claim in Equity or otherwise at law.
- 7.5 Your sole remedy against us shall be limited to breach of contract and the extent of any such liability shall be limited, at our option, to supplying the Services again, rectifying any shortcomings in the Service, or refunding the price you paid for the particular Services.
- 7.6 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.
- 7.7 No action may be brought against us unless notice of such claim is given to us within one week of the supply of Services to us by you. We shall be released from all or any liability unless proceedings are brought in a Court of competent jurisdiction within one year of the date of supply of the Services.

## 8 Default

- 8.1 If you do not pay any monies owed to us (the unpaid monies) 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 monies from the due date until payment in full is made (including after as well as before any Court judgment).
- 8.2 You indemnify us for and agree to pay, on demand, all costs we incur (including legal costs on a solicitor-client basis and debt collection costs) in the recovery or attempted recovery of unpaid moneys and/or the enforcement of these Terms.

## **9 Use of information**

- 9.1 You agree that we may collect the information for the purpose of assessing your application for credit (if any such application), including checking your present and continued credit worthiness, if necessary, collecting any outstanding debt from you, arranging for future provision of services, setting up our client database 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.
- 9.2 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. We may request, and any person or organisation (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.
- 9.3 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.

- 9.4 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 Services to you.

## **10 General Provisions**

- 10.1 These Terms apply to all transactions we have with you. If there is any inconsistency between these Terms and any Form submitted by you or any other arrangement with us, these Terms prevail unless otherwise agreed by us in writing.
- 10.2 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.
- 10.3 These Terms are governed by, and shall be construed in accordance with, the laws of New Zealand. Both parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
- 10.4 Any failure on our part to insist on strict compliance with any provision of these terms or any delay on our part in exercising our rights under these terms will not constitute a variation or waiver of any provision of these terms or of any right available to us.
- 10.5 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 shall constitute agreement by you to the amended terms.