

1. Definitions

- 1.1 **“Contract”** means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 **“Euro Agri”** means Euro Agri Imports (2009) Limited T/A Euro Agri, its successors and assigns.
- 1.3 **“Client”** means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting Euro Agri to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
(a) if there is more than one Client, is a reference to each Client jointly and severally; and
(b) if the Client is a partnership, it shall bind each partner jointly and severally; and
(c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
(d) includes the Client’s executors, administrators, successors and permitted assigns.
- 1.4 **“Goods”** means all Goods (including Machinery, parts and any other components) or Services supplied by Euro Agri to the Client at the Client’s request from time to time (where the context so permits the terms ‘Goods’ or ‘Services’ shall be interchangeable for the other).
- 1.5 **“Cookies”** means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client’s computer. If the Client does not wish to allow Cookies to operate in the background when using Euro Agri’s website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.
- 1.6 **“Price”** means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Goods as agreed between Euro Agri and the Client in accordance with clause 8 below.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts Delivery of the Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Client acknowledges and accepts that:
(a) the supply of Goods/Equipment on credit shall not take effect until the Client has completed a credit application with Euro Agri and it has been approved with a credit limit established for the account;
(b) in the event that the supply of Goods/Equipment request exceeds the Client’s credit limit and/or the account exceeds the payment terms, Euro Agri reserves the right to refuse Delivery; and
(c) the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, Euro Agri reserves the right to vary the Price with alternative Goods as per clause 8.2, subject to prior confirmation and agreement of both parties. Euro Agri also reserves the right to halt all Services until such time as Euro Agri and the Client agree to such changes. Euro Agri shall not be liable to the Client for any loss or damage the Client suffers due to Euro Agri exercising its rights under this clause.
- 2.5 The Client further acknowledges and understands that (subject to Clause 8.2):
(a) onsite repairs shall incur Euro Agri’s current labour rates plus kilometres travelled; and
(b) in the event the Machinery requires towing, then any fees incurred for such towing shall be for the Client’s account.
- 2.6 Should Euro Agri be required to provide the Services urgently, that may require Euro Agri’s staff to work outside normal business hours (including but not limited to working, through lunch breaks, weekends and/or Public Holidays) then Euro Agri reserves the right to charge the Client additional labour costs (penalty rates will apply), unless otherwise agreed between Euro Agri and the Client.
- 2.7 If Euro Agri has been requested by the Client to diagnose a fault that requires disassembly and/or testing, all costs involved will be charged to the Client irrespective of whether or not the repair goes ahead.
- 2.8 In the event that Euro Agri is of the opinion the Client’s Machinery is uneconomical to repair, then Euro Agri shall request the Client authorise the commencement of any Services requested by the Client in writing and the Client shall duly accept responsibility for the payment of all Goods and/or Services undertaken in relation to the Machinery.
- 2.9 Any advice, recommendation, information, assistance or service provided by Euro Agri in relation to Goods or Services supplied is given in good faith to the Client, or the Client’s agent and is based on Euro Agri’s own knowledge and experience and shall be accepted without liability on the part of Euro Agri. Where such advice or recommendations are not acted upon then Euro Agri shall require the Client or their agent to authorise commencement of the Services in writing. Euro Agri shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.
- 2.10 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

- 3.1 The Client acknowledges and accepts that Euro Agri shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
(a) resulting from an inadvertent mistake made by Euro Agri in the formation and/or administration of this Contract; and/or
(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Euro Agri in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of Euro Agri; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Authorised Representatives

- 4.1 The Client acknowledges that Euro Agri shall (for the duration of the Services) liaise directly with one (1) authorised representative, and that once introduced as such to Euro Agri, that person shall have the full authority of the Client to order any Services, and/or to request any variation thereto on the Client’s behalf. The Client accepts that they will be solely liable to Euro Agri for all additional costs incurred by Euro

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Agri (including Euro Agri's profit margin) in providing any Services, or variation/s requested thereto by the Client's duly authorised representative.

5. Change in Control

5.1 The Client shall give Euro Agri not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address and contact phone or fax number/s, change of trustees or business practice). The Client shall be liable for any loss incurred by Euro Agri as a result of the Client's failure to comply with this clause.

6. Trade-ins

6.1 In the event that Euro Agri accepts a trade-in as part payment of purchase, Goods or machinery outright, then the Client acknowledges and warrants that he/she owns the said property and that it is not in any subject to any security, charge, lien or hire purchase agreement.
6.2 All trade-in items will be subject to a full inspection prior to a trade-in value being established.

7. Finance

7.1 If this contract is conditional upon the Client obtaining capital funding from a financial institution then they shall provide Euro Agri with written confirmation of the loan approval within five (5) working days of the date of signing this contract.
7.2 In the event any such loan application is declined then the Client shall have the right to withdraw from this contract subject to the Client providing Euro Agri with written evidence within five (5) working days of the date of signing this contract that the loan was declined. Upon receipt of such evidence Euro Agri shall refund the Client any deposit paid less any expenses incurred by Euro Agri for any Services performed to date.

8. Price and Payment

8.1 At Euro Agri's sole discretion the Price shall be either:
(a) as indicated on any invoice provided by Euro Agri to the Client; or
(b) the Price as at the date of Delivery of the Goods according to Euro Agri's current price list; or
(c) Euro Agri's quoted price (subject to clause 8.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
8.2 Euro Agri reserves the right to change the Price:
(a) if a variation to the Goods which are to be supplied is requested; or
(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
(c) if during the course of the Services, the Goods cease to be available from Euro Agri's third party suppliers, then Euro Agri reserves the right to provide alternative Goods; or
(d) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, obscured defects found on closer inspection, extra diagnostic tests required, etc.) which are only discovered on commencement of the Services; or
(e) in the event of increases to Euro Agri in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond Euro Agri's control.
8.3 At Euro Agri's sole discretion a non-refundable deposit may be required.
8.4 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by Euro Agri, which may be:
(a) for certain approved Clients, due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices;
(b) the date specified on any invoice or other form as being the date for payment; or
(c) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Euro Agri.
8.5 Payment may be made by electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Client and Euro Agri.
8.6 Euro Agri may in its discretion allocate any payment received from the Client towards any invoice that Euro Agri determines and may do so at the time of receipt or at any time afterwards. On any default by the Client Euro Agri may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Euro Agri, payment will be deemed to be allocated in such manner as preserves the maximum value of Euro Agri's Purchase Money Security Interest (as defined in the PPSA) in the Goods.
8.7 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Euro Agri nor to withhold payment of any invoice because part of that invoice is in dispute.
8.8 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to Euro Agri an amount equal to any GST Euro Agri must pay for any supply by Euro Agri under this or any other contract for the sale of the Goods. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

9. Provision of the Services

9.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
(a) the Client or the Client's nominated carrier takes possession of the Goods at Euro Agri's address; or
(b) Euro Agri (or Euro Agri's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
9.2 At Euro Agri's sole discretion the cost of Delivery is in addition to the Price.

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9.3 Any time specified by Euro Agri for Delivery of the Goods is an estimate only and Euro Agri will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. However both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as was arranged between both parties. In the event that Euro Agri is unable to supply the Goods as agreed solely due to any action or inaction of the Client, then Euro Agri shall be entitled to charge a reasonable fee for redelivery and/or storage.

10. Product Specifications

10.1 The Client acknowledges that:

- (a) all descriptive specifications, illustrations, drawings, data, dimensions, ratings and weights stated in Euro Agri's or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Client shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the Contract, unless expressly stated as such in writing by Euro Agri;
- (b) while Euro Agri may have provided information or figures to the Client regarding the performance of the Goods, the Client acknowledges that Euro Agri has given these in good faith, and are estimates based on industry prescribed estimates.

10.2 The Client shall be responsible for ensuring that the Goods ordered are suitable for their intended use.

11. Risk

11.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.

11.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, Euro Agri is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Euro Agri is sufficient evidence of Euro Agri's rights to receive the insurance proceeds without the need for any person dealing with Euro Agri to make further enquiries.

11.3 If the Client requests Euro Agri to leave Goods outside Euro Agri's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.

11.4 Where Euro Agri is requested to store the Client's Goods or Machinery, or where Goods or Machinery are not collected within twenty-four hours of advice to the Client that they are ready for collection, then Euro Agri (at its sole discretion) may charge a reasonable fee for storage.

11.5 The Client acknowledges that Euro Agri is only responsible for Goods that are replaced by Euro Agri and does not at any stage accept any liability in respect of previous services and/or parts supplied by any other third party that subsequently fail and found to be the source of the failure, the Client agrees to indemnify Euro Agri against any loss or damage to the Goods, or caused by the Goods, or any part thereof howsoever arising.

11.6 Euro Agri or its employees may test drive or carry out tests on the Client's Machinery as required at Euro Agri's discretion and may if requested by the Client collect or re-deliver the Machinery when nominated by the Client. Euro Agri will not be liable for (and the Client indemnifies the Client against) any damages caused to, or by, the Machinery during such tests, collecting or delivery unless it arises from the recklessness or wilful misconduct of Euro Agri or its employees.

11.7 The Client acknowledges that it is their sole responsibility to ensure the Machinery is insured adequately or at all.

11.8 The Goods supplied by Euro Agri shall comply with applicable safety and industry standards. The Client acknowledges and accepts that where the Client fails to adhere to any care and maintenance advice relating to the Goods, then the Client shall not hold Euro Agri liable for any losses or damaged caused by any failure of the Goods.

11.9 The Client accepts that it is the responsibility of the Client to either stay with the Machinery or secure the Machinery until Euro Agri or Euro Agri's employees are in attendance.

12. Access

12.1 The Client shall ensure that Euro Agri has clear and free access to the site at all times to enable them to undertake the Services. Euro Agri shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of Euro Agri.

13. Compliance with Laws

13.1 The Client and Euro Agri shall comply with the provisions of all statutes, regulations and any other relevant safety standards, or legislation that may be applicable to the Services.

14. Title

14.1 Euro Agri and the Client agree that ownership of the Goods shall not pass until:

- (a) the Client has paid Euro Agri all amounts owing to Euro Agri; and
- (b) the Client has met all of its other obligations to Euro Agri.

14.2 Receipt by Euro Agri of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

14.3 It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 14.1:

- (a) the Client is only a bailee of the Goods and must return the Goods to Euro Agri on request;
- (b) the Client holds the benefit of the Client's insurance of the Goods on trust for Euro Agri and must pay to Euro Agri the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;
- (c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for Euro Agri and must pay or deliver the proceeds to Euro Agri on demand;
- (d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of Euro Agri and must sell, dispose of or return the resulting product to Euro Agri as it so directs;
- (e) the Client irrevocably authorises Euro Agri to enter any premises where Euro Agri believes the Goods are kept and recover possession of the Goods;
- (f) Euro Agri may recover possession of any Goods in transit whether or not Delivery has occurred;

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- (g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Euro Agri; and
- (h) Euro Agri may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

15. Personal Property Securities Act 1999 (“PPSA”)

- 15.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:
 - (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Goods that have previously been supplied and that will be supplied in the future by Euro Agri to the Client, and the proceeds from such Goods.
- 15.2 The Client undertakes to:
 - (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Euro Agri may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, Euro Agri for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods or the proceeds of such Goods in favour of a third party without the prior written consent of Euro Agri; and
 - (d) immediately advise Euro Agri of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 15.3 Euro Agri and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 15.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.
- 15.5 Unless otherwise agreed to in writing by Euro Agri, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 15.6 The Client shall unconditionally ratify any actions taken by Euro Agri under clauses 15.1 to 15.5.
- 15.7 Subject to any express provisions to the contrary (including those contained in this clause 15), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

16. Security and Charge

- 16.1 In consideration of Euro Agri agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, and the Client grants a security interest in all of its present and after-acquired property, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to s.209 of the Land Transfer Act 2017.
- 16.2 The Client indemnifies Euro Agri from and against all Euro Agri's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Euro Agri's rights under this clause.
- 16.3 The Client irrevocably appoints Euro Agri and each director of Euro Agri as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 16 including, but not limited to, signing any document on the Client's behalf.

17. Defects

- 17.1 The Client shall inspect the Goods on Delivery and shall within five (5) days of Delivery (time being of the essence) notify Euro Agri of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford Euro Agri an opportunity to inspect the Goods within a reasonable time following Delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which Euro Agri has agreed in writing that the Client is entitled to reject, Euro Agri's liability is limited to either (at Euro Agri's discretion) replacing the Goods or repairing the Goods.
- 17.2 Goods will not be accepted for return other than in accordance with 17.1 above, and provided that:
 - (a) Euro Agri has agreed in writing to accept the return of the Goods; and
 - (b) the Goods are returned at the Client's cost within seven (7) days of the Delivery date; and
 - (c) Euro Agri will not be liable for Goods which have not been stored or used in a proper manner; and
 - (d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 17.3 Subject to clause 17.1, non-stocklist items or Goods made to the Client's specifications are not acceptable for credit or return.

18. Warranty

- 18.1 Subject to the conditions of warranty set out in clause 18.2 Euro Agri warrants that if any defect in any Goods manufactured or Services provided by Euro Agri becomes apparent and is reported to Euro Agri within three (3) months of the date of Delivery (time being of the essence) then Euro Agri will either (at Euro Agri's sole discretion) replace or remedy the defect.
- 18.2 The conditions applicable to the warranty given by clause 18.1 are:
 - (a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
 - (i) failure on the part of the Client to properly maintain any Goods or serviced item; or
 - (ii) failure on the part of the Client to follow any instructions or guidelines provided by Euro Agri; or
 - (iii) any use of any Goods or serviced item otherwise than for any application specified on a quote or order form; or
 - (iv) the continued use of any Goods or serviced item after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
 - (v) fair wear and tear, any accident or act of God.

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- (b) the warranty shall cease and Euro Agri shall thereafter in no circumstances be liable under the terms of the warranty if the defect is repaired, altered or overhauled without Euro Agri's consent.
- (c) in respect of all claims Euro Agri shall not be liable to compensate the Client for any delay in either replacing or remedying the defective Goods or Services or in properly assessing the Client's claim.
- 18.3 For Goods not manufactured by Euro Agri, the warranty shall be the current warranty provided by the manufacturer of the Goods. Euro Agri shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.
- 18.4 To the extent permitted by statute, no warranty is given by Euro Agri as to the quality or suitability of the Goods for any purpose and any implied warranty, is expressly excluded. Euro Agri shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.
- 18.5 The conditions applicable to the warranty given on Goods supplied by Euro Agri are contained on the "Warranty Documentation" that will be supplied with the Goods.
- 19. Consumer Guarantees Act 1993**
- 19.1 If the Client is acquiring Goods for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 ("CGA") do not apply to the supply of Goods by Euro Agri to the Client.
- 20. Intellectual Property**
- 20.1 Where Euro Agri has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of Euro Agri. Under no circumstances may such designs, drawings and documents be used without the express written approval of Euro Agri.
- 20.2 The Client warrants that all designs, specifications or instructions given to Euro Agri will not cause Euro Agri to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Euro Agri against any action taken by a third party against Euro Agri in respect of any such infringement.
- 20.3 The Client agrees that Euro Agri may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Euro Agri has created for the Client.
- 21. Default and Consequences of Default**
- 21.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Euro Agri's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 21.2 If the Client owes Euro Agri any money the Client shall indemnify Euro Agri from and against all costs and disbursements incurred by Euro Agri in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Euro Agri's collection agency costs, and bank dishonour fees).
- 21.3 Further to any other rights or remedies Euro Agri may have under this Contract, if a Client has made payment to Euro Agri, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Euro Agri under this clause 21 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- 21.4 Without prejudice to Euro Agri's other remedies at law Euro Agri shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Euro Agri shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Euro Agri becomes overdue, or in Euro Agri's opinion the Client will be unable to make a payment when it falls due;
- (b) the Client has exceeded any applicable credit limit provided by Euro Agri;
- (c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 22. Cancellation**
- 22.1 Without prejudice to any other remedies Euro Agri may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Euro Agri may suspend or terminate the supply of Goods to the Client. Euro Agri will not be liable to the Client for any loss or damage the Client suffers because Euro Agri has exercised its rights under this clause.
- 22.2 Euro Agri may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice Euro Agri shall repay to the Client any money paid by the Client for the Goods. Euro Agri shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 22.3 In the event that the Client cancels Delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by Euro Agri as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 22.4 Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.
- 23. Privacy Policy**
- 23.1 All emails, documents, images or other recorded information held or used by Euro Agri is "Personal Information" as defined and referred to in clause 23.3 and therefore considered confidential. Euro Agri acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines as set out in the Act. Euro Agri acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by Euro Agri that may result in serious harm to the Client, Euro Agri will notify the Client in accordance with the Act. Any release of

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- such Personal Information must be in accordance with the Act and must be approved by the Client by written consent, unless subject to an operation of law.
- 23.2 Notwithstanding clause 23.1, privacy limitations will extend to Euro Agri in respect of Cookies where the Client utilises Euro Agri's website to make enquiries. Euro Agri agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to Euro Agri when Euro Agri sends an email to the Client, so Euro Agri may collect and review that information ("collectively Personal Information")
- If the Client consents to Euro Agri's use of Cookies on Euro Agri's website and later wishes to withdraw that consent, the Client may manage and control Euro Agri's privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when exiting the site.
- 23.3 The Client authorises Euro Agri or Euro Agri's agent to:
- (a) access, collect, retain and use any information about the Client;
 - (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Client.
 - (b) disclose information about the Client, whether collected by Euro Agri from the Client directly or obtained by Euro Agri from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
- 23.4 Where the Client is an individual the authorities under clause 23.3 are authorities or consents for the purposes of the Privacy Act 2020.
- 23.5 The Client shall have the right to request (by e-mail) from Euro Agri, a copy of the Personal Information about the Client retained by Euro Agri and the right to request that Euro Agri correct any incorrect Personal Information.
- 23.6 Euro Agri will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 23.7 The Client can make a privacy complaint by contacting Euro Agri via e-mail. Euro Agri will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Privacy Commissioner at <http://www.privacy.org.nz>.
- 24. Service of Notices**
- 24.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 24.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- 25. Trusts**
- 25.1 If the Client at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Euro Agri may have notice of the Trust, the Client covenants with Euro Agri as follows:
- (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - (b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
 - (c) the Client will not without consent in writing of Euro Agri (Euro Agri will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.
- 26. General**
- 26.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 26.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Ashburton Courts, New Zealand.
- 26.3 Subject to the CGA, Euro Agri shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Euro Agri of these terms and conditions (alternatively Euro Agri's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 26.4 Euro Agri may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.

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- 26.5 The Client cannot licence or assign without the written approval of Euro Agri.
- 26.6 Euro Agri may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of Euro Agri's sub-contractors without the authority of Euro Agri.
- 26.7 The Client agrees that Euro Agri may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for Euro Agri to provide Goods to the Client.
- 26.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Client to make a payment to Euro Agri.
- 26.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.