

**DOMESTIC AND INTERNATIONAL TERMS OF TRADE
OF GREENLEA PREMIER MEATS LIMITED (Supplier)**

1. INTERPRETATION

1.1 Headings are inserted for convenience and will not affect the construction of these Terms.

1.2 The singular includes the plural and vice versa. Words importing one gender include the other. Persons includes corporations and vice versa.

1.3 Definitions:

Buyer is defined in clause 2.1;

CIF has the meaning given to that term in Incoterms 2010;

Document includes any message sent by facsimile or electronic transmission through the internet and/or world-wide web of written messages and documents;

Ex Works has the meaning given to that term in Incoterms 2010;

FOB has the meaning given to that term in Incoterms 2010;

Goods means any product sold by Greenlea Premier Meats;

GST means goods and services tax in terms of the Goods and Services Tax Act 1985 (New Zealand), at the rate prevailing from time to time, including any tax levied in substitution for that tax;

Intellectual Property means intellectual property rights, whether arising under statutory or common law, including without limitation copyright, trade marks (unregistered and registered), know how, specifications, manufacturing methods, research and development, quality control procedures, technical documentation and trade secrets.

Incoterms 2010 means the International Chamber of Commerce Official Rules for the interpretation of trade terms 2010 as in effect at the time of the contract;

Order Confirmation means the document named or headed "Order Confirmation" sent from the Supplier to the Buyer confirming all relevant details of the Goods ordered by the Buyer;

Price means the price of the Goods as agreed between the Supplier and the Buyer in accordance with the Supplier's Order Confirmation (GST exclusive), subject to variation in accordance with these Terms;

Supplier means Greenlea Premier Meats Limited of 247 Kahikatea Drive, Hamilton, New Zealand;

Termination Event means:

(a) the Buyer:

(i) refusing to accept any of the Goods; or

- (ii) breaching a provision of these Terms or a term of the contract; or
 - (iii) going into liquidation, being adjudged bankrupt or committing an act of bankruptcy; or
 - (iv) making an assignment for the benefit of creditors or entering into a composition, agreement or arrangement with some or all of its creditors or a petition for the winding up of the Buyer being presented or a resolution for winding up passed; or
- (b) an extraordinary event occurring or a material change affecting the affairs or financial conditions of the Buyer occurring, which event or change gives the Supplier grounds to conclude that the Buyer may not, or may not be able to perform or observe its obligations under these Terms or the contract; or
- (c) where the Goods are in the Supplier's opinion at risk;

Trade Marks means the Greenlea Bull (Logo) or trade marks listed in the Visual Guidelines, which are registered or being registered in the name of Greenlea Premier Meats Limited;

Vienna Convention means the United Nations Convention on Contracts for the International Sale of Goods 1980. This Convention is given force in New Zealand by section 4 of the Sale of Goods (United Nations Convention) Act 1994;

Visual Guidelines means the visual brand guidelines listed on the Website as amended from time to time by the Supplier in its sole discretion and notified to the Buyer;

Website means the website www.greenlea.co.nz as may be amended from time to time.

Working Day means a day (other than a Saturday, Sunday or a statutory public holiday) on which registered banks are open for business in Hamilton, New Zealand.

2. THE TERMS OF TRADE

- 2.1 The terms of trade set out below (**Terms**) will apply to all contracts for the supply of all Goods made with the Supplier and the person purchasing the Goods (**Buyer**).
- 2.2 These Terms supersede any previous contracts, and/or terms of trade or supply, however agreed upon, between the parties.
- 2.3 Acceptance of delivery of any Goods is deemed to be acceptance by the Buyer of these Terms to the exclusion of any other terms proposed by the Buyer, despite anything that may be stated to the contrary in the Buyer's enquiries or on the Buyer's orders.
- 2.4 If the Buyer places an order on terms inconsistent with these Terms, then delivery of the Goods by the Supplier pursuant to that order will be deemed a counter offer and the Buyer's acceptance of the Goods when delivered will constitute acceptance of these Terms.

3. FORMATION OF CONTRACT AND BASIS OF SALE

- 3.1** A contract for the supply of Goods will not be formed until the Supplier has sent the Buyer an Order Confirmation. Orders shall be accepted entirely at the Supplier's discretion, and if accepted, are governed by these Terms.
- 3.2** Where the Order Confirmation specifies a delivery date or dates, this is an estimate only. Time is not of the essence unless expressly stated in the Order Confirmation.
- 3.3** For Goods supplied outside New Zealand, Goods may be sold free on board (FOB), or costs, insurance, freight (CIF), or Ex Works; each as defined in Incoterms 2010 edition or any other terms defined in Incoterms; or such other basis as may be agreed between the Supplier and Buyer. The Order Confirmation will determine the terms that apply to any contract.
- 3.4** For Goods supplied in New Zealand, delivery will be deemed to occur at the earlier of the following times:
- (a)** the time at which a consignment note or equivalent document is signed by or on behalf of the Buyer at the agreed place of delivery; or
 - (b)** the time of collection of the Goods by the Buyer or its agent and deliver has a corresponding meaning.
- 3.5** The Goods will be supplied to the place indicated in the Order Confirmation, or in the absence of any such indication, to the Buyer's last known address.

4. PRICES

- 4.1** Except as expressly agreed otherwise in writing with the Supplier:
- (a)** prices, unless otherwise stated, do not include any taxes, GST, import duties or other levies or tariffs, freight or insurance charges which if applicable will be an extra charge;
 - (b)** any increases in prices due to taxes, tariffs, exchange rate increases, duties, freight or insurance charges after any quotation will be to the Buyer's account; and
 - (c)** prices submitted by the Supplier to the Buyer are based upon the known costs of the Goods and are subject to alteration as a result of change of intention on the part of the Buyer, increased costs of Goods to the Supplier, delays and any other causes beyond the Supplier's control.
- 4.2** Prices are given in New Zealand dollars unless otherwise stated.
- 4.3** Prices are for goods supplied and packed at Supplier's specification and based on delivery from the Supplier's store.
- 4.4** Where the Supplier agrees to supply Goods on condition that a deposit be paid, then if the Buyer fails to take delivery of the Goods or is otherwise in breach of these Terms, the Supplier may cancel the contract and retain the deposit (in

addition to any other rights or remedies the Supplier may have under these Terms or at law or otherwise).

5. PAYMENT AND DEFAULT INTEREST

- 5.1** The Supplier will issue an invoice to the Buyer for the Price stated in a quotation or Order Confirmation. Each invoice will:
- (a) be in the form of a valid tax invoice for GST purposes;
 - (b) be in a form, and delivered by the method, reasonably requested by the Buyer from time to time; and
 - (c) describe in adequate detail the Goods that are the subject of the invoice.
- 5.2** Unless otherwise specified by the Supplier the Price will be payable in full without any set off or deduction within 7 days from the date of the invoice.
- 5.3** Despite clause 5.2, the Supplier may at its sole and absolute discretion require payment of the Price in full without any set off or deduction:
- (a) upon delivery of the Goods to the Buyer in accordance with clause 6 in cash or by letter of credit;
 - (b) upon demand being made for the Price by the Supplier, or
 - (c) at any other time as may be agreed with the Buyer.
- 5.4** Under no circumstances will the Supplier permit the Buyer to withhold any part of the Price for any reason whatsoever, including but not limited to for the purpose of securing any payments which are due to the Buyer by any third parties.
- 5.5** The Supplier will be entitled to charge interest on any amount overdue for payment by the Buyer, together with actual costs (legal or otherwise) incurred by the Supplier for the enforcement of payment of such overdue amounts. Any overdue amount will incur a default interest charge of 6% per annum above the Supplier's current bank overdraft rate from the date on which payment of that amount falls overdue until the date on which payment of the overdue amount is made in full. Default interest will be paid on demand.
- 5.6** Without prejudice to any other rights or remedies of the Supplier under these Terms and Conditions of Sale, if an account is overdue for payment, the Supplier may stop supplying Goods, place the overdue account on stop credit or hold until full payment of the overdue account is received.
- 5.7** For the avoidance of doubt, the Supplier will only accept payment directly from a Buyer's Buyer on the understanding that liability for payment remains with the Buyer until payment for the Goods has been received by the Supplier in full.

6. DELIVERY AND RISK

- 6.1** Dates given for shipment or delivery are stated in good faith, but are not to be treated as a condition of the sale. No claim will be made by the Buyer on account of late shipment or delivery, however caused. Late delivery will not constitute a

breach of these Terms by the Supplier and the Buyer will not be entitled to cancel the contract.

6.2 The risk in the goods will pass to the Buyer upon delivery, including as delivery may be defined in Incoterms 2010, as applicable.

6.3 Subject to the agreed Incoterm under clause 3.3 or the terms of clause 3.4, whichever applies, delivery of the Goods is taken to occur at the time the Buyer or the Buyer's nominated carrier takes possession of the Goods.

7. FORCE MAJEURE

7.1 Despite any agreement as to the date of shipment or delivery, it is agreed that shipment or delivery may be suspended in whole or in part from time to time in case of fire, accident, earthquake, flood, drought, crime, war, blockade, civil commotion, epidemic, strike, lockout or labour dispute, shortage of fuel, power or raw material, inability to procure stock, inability to obtain transport, defaults of manufacturers or suppliers, act of God, rejection of the Goods by regulatory authorities in country of destination, or any other cause beyond the reasonable control of the Supplier. The Buyer will have no claims whatsoever against the Supplier in consequence of any such cancellation or suspension and may not purport to cancel shipments or delivery.

7.2 If shipment is delayed by anything or any event set out in the foregoing clause for more than 30 Working Days, the Supplier may at its option by notice to the Buyer rescind the contract in which case the Buyer will have no claim of any nature or kind against the Supplier.

8. CERTIFICATION WARRANTY

The Supplier warrants that it holds and will maintain, in its own name, all certifications, authorisations, consents and licences which are necessary or required to supply the Goods to the country at which the Goods are to be discharged from the vessel shipping the same. All other warranties, guarantees, conditions and liabilities expressed or implied, statutory or otherwise are excluded in accordance with and subject to the terms of clause 14.2.

9. SAMPLES

Despite any prior submission of samples by the Supplier to the Buyer, Goods are supplied solely as described in the Supplier's invoice, and the bill of lading or airway bill will be conclusive evidence as at the date of shipment of the weight or quantity of the Goods.

10. REPRESENTATIONS

10.1 The Buyer acknowledges that it does not rely on, and waives any claim for breach of, any representations concerning the Goods that are not set out in a quotation or Order Confirmation.

10.2 The Buyer agrees that it will not (and will ensure that its buyers, agents and representatives do not) make any representations, warranties or statements to

its/their buyers which are not authorised in writing by the Supplier or which are not consistent with information provided by the Supplier to the Buyer in relation to the Goods. The Buyer indemnifies the Supplier from and against any claims or actions by third parties in relation to a breach of this clause.

11. TITLE AND SECURITY INTEREST

11.1 Without prejudice to the obligations and liabilities of the Buyer to pay all money due for goods, all goods supplied by the Supplier will remain the sole and absolute property of the Supplier as legal and equitable owner pending cleared payment in full of all money due under this contract or in respect of any other money owed by the Buyer to the Supplier. The Buyer acknowledges that the Buyer is in possession of such unpaid goods as bailee for the Supplier pending payment in full. Pending payment in full, the Buyer agrees to store the goods in such a manner that the goods are readily identifiable as the property of the Supplier. The Buyer also agrees to maintain the Goods in good order and condition and preserve the Goods in their present form.

11.2 The Buyer:

- (a) grants to the Supplier a security interest in the Goods (and the proceeds of sale of the Goods) as security for the purchase price for the Goods which the Supplier can register or perfect in any means possible in the jurisdiction of the Buyer (and any other jurisdiction the Supplier deems necessary or desires) to ensure that the Supplier has an enforceable security interest against the Buyer in the Goods (and the proceeds of sale of the Goods);
- (b) agrees to do all things and execute or arrange for execution of all documents the Supplier requires to ensure the Supplier acquires a perfected first ranking security interest in the Goods in the relevant jurisdiction(s);
- (c) will indemnify the Supplier for any costs the Supplier incurs in registering, maintaining, discharging and/or enforcing the security interest created by these Terms; and
- (d) for Goods supplied in New Zealand, waives any right to receive a copy of a verification statement (as defined in the Personal Property Securities Act 1999 (**PPSA**)) under the PPSA and agrees to the extent permitted by law that:
 - (i) where the Buyer has rights in addition to, or existing separately from those in Part 9 of the PPSA, those rights will continue to apply and, in particular, will not be limited by section 109 of the PPSA;
 - (ii) sections 114(1)(a), 133 and 134 of the PPSA will not apply; and
 - (iii) the Buyer will have none of the rights referred to in sections 116, 117(1)(c), 119, 120(2), 125, 127, 129 and 131 of the PPSA and the Buyer waives its rights to object under section 121 and to redeem under section 132 of the PPSA.

11.3 The Supplier will (without prejudice to its other rights and remedies) be entitled (but not obliged) pending payment in full to retake possession of the Goods. For that purpose, the Buyer grants the Supplier an irrevocable right

and authority to enter at any time onto any place where the Goods are situated, or thought to be situated, and to take and resell the Goods and to retain the proceeds from such sale (any shortfall will be a debt due and owing by the Buyer). The Buyer will indemnify and continue to indemnify the Supplier in respect of any claim, action, damage, expense or cost incurred or threatened as a result of the Supplier exercising the powers of this clause or otherwise acting to recover any money payable or Goods supplied pursuant to these Terms or any other contract between the Buyer and the Supplier for the supply of goods (including costs on a solicitor/client basis).

- 11.4** Should the Goods become constituents of or be converted into other products while title remains with the Supplier, the ownership of the incorporated goods will at the time of incorporation vest in and thereafter remain with the Supplier, as if they were solely and simply the Goods. The foregoing provisions of this clause will apply to such products accordingly.

12. LIMITATION OF LIABILITY

- 12.1** Unless otherwise required by law and subject to clause 12.2, the exclusive remedies of the Buyer and the entire liability of the Supplier whether in contract, tort, under warranty or otherwise for any loss damage or injury arising directly or indirectly from any defect in, or damage to, the Goods or any other breach of the Supplier's obligations will be limited to, at the option of the Supplier:

- (a) the price of the Goods under the relevant contract;
- (b) the cost of replacing the Goods under the relevant contact; or
- (c) the actual loss or damage suffered by the Buyer.

- 12.2** Unless otherwise required by law, the Supplier will not be liable in any event for any loss of profits or any consequential, indirect or special damage, loss or injury of any kind suffered by the Buyer or any other person.

- 12.3** The Supplier may, by written request to the Buyer, require the Buyer to maintain a policy of insurance with reputable insurers in an amount sufficient to cover product liability suits and potential losses resulting from the recall or detention of Goods. The Supplier may also request that the Buyer provide the Supplier with a copy of a certificate of currency of such insurance. The Buyer indemnifies the Supplier against any product liability claims from a third party that are caused by the Buyer's wilful conduct, breach or negligence.

- 12.4** The Buyer will not be entitled to make any claim against the Supplier (and the Supplier will not be liable to the Buyer) under or in connection with these Terms if and to the extent that such claim is entitled to be recovered by the Buyer under a policy of insurance of the Buyer or would have been entitled but for a breach of these Terms by the Buyer.

13. BUYER DEFAULT

- 13.1** Upon the occurrence of any Termination Event the Supplier may:

- (a) cancel all outstanding contracts with the Buyer;

- (b) enter into any premises where the Goods supplied by it are located, and repossess and sell such Goods to recover moneys owed to the Supplier;
 - (c) the Supplier may recover possession of any Goods in transit whether or not delivery has occurred;
 - (d) retain all monies paid;
 - (e) require that all monies invoiced to the Buyer become immediately due and payable;
 - (f) suspend further deliveries to the Buyer;
 - (g) exercise its rights under any guarantee or other security granted in favour of the Supplier in connection with the Goods; and
 - (h) recover from the Buyer any loss of profits arising from such cancellation.
- 13.2** Cancellation will not affect any of the Supplier's accrued rights under these Terms.
- 13.3** The Supplier will not be liable for any loss or damage whatsoever arising from such cancellation.

14. SUPPLIER WARRANTY AND CLAIMS PROCESS

- 14.1** Unless otherwise stated, the Supplier warrants that it has good title to the Goods and that the Goods conform to the criteria provided by the Supplier.
- 14.2** To the fullest extent permitted by law, all Supplier warranties under this agreement are to the exclusion of all warranties, guarantees, conditions and liabilities expressed or implied, statutory or otherwise applying either in New Zealand or in the jurisdiction of the Buyer.
- 14.3** The Buyer agrees that it will not, in relation to the Goods, give or make any undertaking, assertion or representation in relation to the Goods without our prior approval in writing.
- 14.4** In the event of any claims by the Buyer alleging the breach of the Terms in respect of quality or quantity of the Goods, or other pre- shipment obligations on the part of the Supplier, the Buyer is required to immediately contact the Supplier and follow the claims procedures as advised by the Supplier.
- 14.5** Where the contract for supply of the Goods is a contract for the supply of boneless beef to a Buyer in the United States of America or Canada, fat claims will be settled in accordance with the Meat Importers Council of America Inc's current guidelines for the settlement of fat claims.
- 14.6** Where all or part of a shipment of Goods to a Buyer in the United States of America is rejected at port of entry by United States Department of Agriculture (USDA) after payment by the Buyer to the Supplier of the Price, the Supplier on receipt of the USDA rejection certificate will refund to the Buyer the Price, or part thereof, in respect of the Goods rejected, and such payment will be a full and final settlement of any liability the Supplier has to the Buyer, provided however, that the Supplier will not be obliged to make such a payment where the Goods

have been used by the Buyer or where the Goods have not been kept at the Supplier's recommended temperature. Property and risk in the Goods will revert to the Supplier on refund of the price.

15. INTELLECTUAL PROPERTY

The Buyer acknowledges that it does not acquire any right, title or interest to the Supplier's Intellectual Property. The Buyer disclaims any interest in the Supplier's Intellectual Property. The Buyer will not challenge or take any action prejudicial to the Supplier's or Intellectual Property.

16. USE OF TRADE MARKS

- 16.1** If expressly consented to by the Supplier in writing, the Buyer may use the Trade Marks for the purpose of promoting the ability to purchase the Goods from the Buyer.
- 16.2** The Buyer must not, by virtue of this clause, obtain or claim any right, title or interest in or to the Trade Marks except the rights of use as are specifically set out in these Terms, and hereby acknowledges and agrees that the benefit of all such use shall at all times enure to the Supplier.
- 16.3** The Buyer must use the Trade Marks in the form supplied or stipulated by the Supplier and strictly in accordance with the Visual Guidelines.
- 16.4** If the Visual Guidelines are amended, the Buyer must comply with the amended Visual Guidelines as soon as reasonably practicable and in any event within three (3) months after being notified of the amended Visual Guidelines by the Supplier.
- 16.5** The Buyer must not use the Trade Marks in any way which would:
- (a)** allow them to become generic, lose their distinctiveness, become liable to mislead the public; or
 - (b)** be materially detrimental to, or inconsistent with the good name, goodwill, reputation and image of the Supplier.
- 16.6** The Buyer shall permit the Supplier or its authorised representative on request to audit the use of the Trade Marks in connection with these Terms.

17. INFRINGEMENT OF TRADE MARKS

- 17.1** If the Buyer learns of any actual, threatened or suspected infringement of the Trade Marks or of any action detrimental to the Trade Marks or of any third party allegation that the Trade Marks are liable to cause deception or confusion to the public the Buyer shall immediately (and without delay) notify the Supplier giving full particulars of such circumstances.
- 17.2** The Supplier shall have the conduct of all proceedings relating to the Trade Marks and shall in its sole discretion decide what action (including litigation, arbitration or compromise) if any to take in respect of any infringement or alleged infringement of the Trade Marks or passing off or any other claim or counterclaim brought or threatened in respect of the use of the Trade Marks. The Supplier shall not be obliged to bring or defend any proceedings whether for infringement

or otherwise in relation to the Trade Marks if it decides in its sole discretion not to do so.

- 17.3** The Buyer will at the request of the Supplier give cooperation to the Supplier in any action, claim or proceedings brought or threatened in respect of the Trade Marks and the Supplier shall meet all reasonable expenses incurred by the Buyer in giving such assistance which are payable to third parties.

18. AMENDMENT

The Supplier may amend these Terms from time to time on written notice to the Buyer. The modified Terms will apply to all orders and supplies of Goods after such notice is given. No other modification of these Terms may be made without the Supplier's prior written consent.

19. WAIVER

Unless expressly agreed in writing by the Supplier, waiver by the Supplier of any breach of these Terms will not be construed as a waiver of that breach. A waiver of any breach will not be a waiver of any other subsequent breach. The failure of or delay by the Supplier to enforce, or exercise any right under, any part of the Terms, will not be deemed to be a waiver of Supplier's rights under these Terms.

20. APPLICABLE LAW

These Terms will be governed and construed in accordance with the laws of New Zealand. The parties submit to the jurisdiction of the New Zealand courts.

- 20.1** The Buyer acknowledges that:
- (a)** the supply under these Terms is a supply for business purposes in terms of section 2 and 43 of the Consumer Guarantees Act 1993 and accordingly the provisions of that Act do not apply to any supply of goods or services made pursuant to these Terms;
 - (b)** sections 9, 12A and 13 of the Fair Trading Act 1986 will not apply; and
 - (c)** the provisions of the Sale of Goods Act 1908 will not apply.

21. ARBITRATION

- 21.1** New Zealand law governs all transactions between the Buyer and the Supplier.
- 21.2** If the Buyer is domiciled in a country that has a reciprocal enforcement of foreign judgment regime with New Zealand, then the Buyer submits to the exclusive jurisdiction of New Zealand courts.
- 21.3** If the Buyer is domiciled in a country that does not have a reciprocal enforcement of foreign judgment regime with New Zealand, then the Buyer submits to the exclusive jurisdiction of the Singapore International Arbitration Centre ("SIAC"). The seat of arbitration will be Singapore. The arbitration will be conducted in

English, in accordance with the Arbitration Rules of the SIAC for the time being in force, and the tribunal will consist of 3 arbitrators.

22. SEVERABILITY

If at any time any provision of these Terms is or becomes illegal, invalid or unenforceable in any respect under the law of New Zealand or any other jurisdiction, neither the legal validity nor enforceability of the remaining provisions of these Terms will in any way be affected or impaired thereby to the intent that these Terms should be construed as if the provision or the part in question had been deleted.

23. VIENNA CONVENTION

The Vienna Convention and therefore the New Zealand Sale of Goods (United Nations Convention) Act 1994 is excluded to the extent permitted by law.